

WSR 15-12-010
PERMANENT RULES
TRANSPORTATION COMMISSION

[Filed May 21, 2015, 1:34 p.m., effective July 1, 2015]

Effective Date of Rule: July 1, 2015.

Purpose: The commission must consider toll rates that will help maintain travel time, speed, and reliability on the SR 520 corridor and must set and adjust toll rates to generate revenue sufficient and necessary to cover costs and obligations. The purpose of the proposed rules is to amend WAC 468-270-071 establishing toll rates on the SR 520 Bridge.

Citation of Existing Rules Affected by this Order: Amending WAC 468-270-071.

Statutory Authority for Adoption: RCW 47.56.785, 47.56.795, 47.56.830, 47.56.850, and 47.56.870.

Adopted under notice filed as WSR 15-07-101 on March 18, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 19, 2015.

Reema Griffith
Executive Director

AMENDATORY SECTION (Amending WSR 14-14-095, filed 6/30/14, effective 7/1/14)

WAC 468-270-071 What are the toll rates on the SR 520 Bridge? Tables 3 through 7 show the applicable toll rates by vehicle axles, day and time of travel, and method of payment.

TABLE 3
SR 520 BRIDGE
TWO-AXLE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!™ Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 6 a.m.	\$(1.75)) <u>1.80</u>	\$(3.35)) <u>3.45</u>	\$(2.00)) <u>2.05</u>	\$(2.85)) <u>2.95</u>
6 a.m. to 7 a.m.	\$(3.00)) <u>3.10</u>	\$(4.60)) <u>4.70</u>	\$(3.25)) <u>3.35</u>	\$(4.10)) <u>4.20</u>
7 a.m. to 9 a.m.	\$(3.80)) <u>3.90</u>	\$(5.40)) <u>5.55</u>	\$(4.05)) <u>4.15</u>	\$(4.90)) <u>5.05</u>
9 a.m. to 10 a.m.	\$(3.00)) <u>3.10</u>	\$(4.60)) <u>4.70</u>	\$(3.25)) <u>3.35</u>	\$(4.10)) <u>4.20</u>
10 a.m. to 2 p.m.	\$(2.40)) <u>2.45</u>	\$(4.05)) <u>4.15</u>	\$(2.65)) <u>2.70</u>	\$(3.55)) <u>3.65</u>
2 p.m. to 3 p.m.	\$(3.00)) <u>3.10</u>	\$(4.60)) <u>4.70</u>	\$(3.25)) <u>3.35</u>	\$(4.10)) <u>4.20</u>
3 p.m. to 6 p.m.	\$(3.80)) <u>3.90</u>	\$(5.40)) <u>5.55</u>	\$(4.05)) <u>4.15</u>	\$(4.90)) <u>5.05</u>
6 p.m. to 7 p.m.	\$(3.00)) <u>3.10</u>	\$(4.60)) <u>4.70</u>	\$(3.25)) <u>3.35</u>	\$(4.10)) <u>4.20</u>
7 p.m. to 9 p.m.	\$(2.40)) <u>2.45</u>	\$(4.05)) <u>4.15</u>	\$(2.65)) <u>2.70</u>	\$(3.55)) <u>3.65</u>
9 p.m. to 11 p.m.	\$(1.75)) <u>1.80</u>	\$(3.35)) <u>3.45</u>	\$(2.00)) <u>2.05</u>	\$(2.85)) <u>2.95</u>
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Saturdays and Sundays⁴	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 8 a.m.	\$((1.20)) <u>1.25</u>	\$((2.80)) <u>2.85</u>	\$((1.45)) <u>1.50</u>	\$((2.30)) <u>2.35</u>
8 a.m. to 11 a.m.	\$((1.80)) <u>1.85</u>	\$((3.40)) <u>3.50</u>	\$((2.05)) <u>2.10</u>	\$((2.90)) <u>3.00</u>
11 a.m. to 6 p.m.	\$((2.35)) <u>2.40</u>	\$((4.00)) <u>4.10</u>	\$((2.60)) <u>2.65</u>	\$((3.50)) <u>3.60</u>
6 p.m. to 9 p.m.	\$((1.80)) <u>1.85</u>	\$((3.40)) <u>3.50</u>	\$((2.05)) <u>2.10</u>	\$((2.90)) <u>3.00</u>
9 p.m. to 11 p.m.	\$((1.20)) <u>1.25</u>	\$((2.80)) <u>2.85</u>	\$((1.45)) <u>1.50</u>	\$((2.30)) <u>2.35</u>
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Notes:

¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.²For this type of payment method, the customer is charged the Good to Go!TM Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.⁴The weekend rates will be assessed ((for the following holidays)) on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE 4
SR 520 BRIDGE
THREE-AXLE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 6 a.m.	\$((2.55)) <u>2.60</u>	\$((5.00)) <u>5.15</u>	\$((2.80)) <u>2.85</u>	\$((4.50)) <u>4.65</u>
6 a.m. to 7 a.m.	\$((4.50)) <u>4.60</u>	\$((6.95)) <u>7.10</u>	\$((4.75)) <u>4.85</u>	\$((6.45)) <u>6.60</u>
7 a.m. to 9 a.m.	\$((5.65)) <u>5.80</u>	\$((8.10)) <u>8.30</u>	\$((5.90)) <u>6.05</u>	\$((7.60)) <u>7.80</u>
9 a.m. to 10 a.m.	\$((4.50)) <u>4.60</u>	\$((6.95)) <u>7.10</u>	\$((4.75)) <u>4.85</u>	\$((6.45)) <u>6.60</u>
10 a.m. to 2 p.m.	\$((3.70)) <u>3.80</u>	\$((6.10)) <u>6.25</u>	\$((3.95)) <u>4.05</u>	\$((5.60)) <u>5.75</u>
2 p.m. to 3 p.m.	\$((4.50)) <u>4.60</u>	\$((6.95)) <u>7.10</u>	\$((4.75)) <u>4.85</u>	\$((6.45)) <u>6.60</u>
3 p.m. to 6 p.m.	\$((5.65)) <u>5.80</u>	\$((8.10)) <u>8.30</u>	\$((5.90)) <u>6.05</u>	\$((7.60)) <u>7.80</u>
6 p.m. to 7 p.m.	\$((4.50)) <u>4.60</u>	\$((6.95)) <u>7.10</u>	\$((4.75)) <u>4.85</u>	\$((6.45)) <u>6.60</u>
7 p.m. to 9 p.m.	\$((3.70)) <u>3.80</u>	\$((6.10)) <u>6.25</u>	\$((3.95)) <u>4.05</u>	\$((5.60)) <u>5.75</u>
9 p.m. to 11 p.m.	\$((2.55)) <u>2.60</u>	\$((5.00)) <u>5.15</u>	\$((2.80)) <u>2.85</u>	\$((4.50)) <u>4.65</u>
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Saturdays and Sundays⁴	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 8 a.m.	\$((1.80)) <u>1.85</u>	\$((4.20)) <u>4.30</u>	\$((2.05)) <u>2.10</u>	\$((3.70)) <u>3.80</u>
8 a.m. to 11 a.m.	\$((2.65)) <u>2.70</u>	\$((5.15)) <u>5.30</u>	\$((2.90)) <u>2.95</u>	\$((4.65)) <u>4.80</u>
11 a.m. to 6 p.m.	\$((3.55)) <u>3.65</u>	\$((6.00)) <u>6.15</u>	\$((3.80)) <u>3.90</u>	\$((5.50)) <u>5.65</u>
6 p.m. to 9 p.m.	\$((2.65)) <u>2.70</u>	\$((5.15)) <u>5.30</u>	\$((2.90)) <u>2.95</u>	\$((4.65)) <u>4.80</u>
9 p.m. to 11 p.m.	\$((1.80)) <u>1.85</u>	\$((4.20)) <u>4.30</u>	\$((2.05)) <u>2.10</u>	\$((3.70)) <u>3.80</u>
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Notes:

¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.²For this type of payment method, the customer is charged the Good to Go!TM Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.⁴The weekend rates will be assessed ~~((for the following holidays))~~ on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE 5
SR 520 BRIDGE
FOUR-AXLE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 6 a.m.	\$((3.45)) <u>3.55</u>	\$((6.65)) <u>6.80</u>	\$((3.70)) <u>3.80</u>	\$((6.15)) <u>6.30</u>
6 a.m. to 7 a.m.	\$((6.05)) <u>6.20</u>	\$((9.30)) <u>9.55</u>	\$((6.30)) <u>6.45</u>	\$((8.80)) <u>9.05</u>
7 a.m. to 9 a.m.	\$((7.55)) <u>7.75</u>	\$((10.75)) <u>11.00</u>	\$((7.80)) <u>8.00</u>	\$((10.25)) <u>10.50</u>
9 a.m. to 10 a.m.	\$((6.05)) <u>6.20</u>	\$((9.30)) <u>9.55</u>	\$((6.30)) <u>6.45</u>	\$((8.80)) <u>9.05</u>
10 a.m. to 2 p.m.	\$((4.85)) <u>4.95</u>	\$((8.10)) <u>8.30</u>	\$((5.10)) <u>5.20</u>	\$((7.60)) <u>7.80</u>
2 p.m. to 3 p.m.	\$((6.05)) <u>6.20</u>	\$((9.30)) <u>9.55</u>	\$((6.30)) <u>6.45</u>	\$((8.80)) <u>9.05</u>
3 p.m. to 6 p.m.	\$((7.55)) <u>7.75</u>	\$((10.75)) <u>11.00</u>	\$((7.80)) <u>8.00</u>	\$((10.25)) <u>10.50</u>
6 p.m. to 7 p.m.	\$((6.05)) <u>6.20</u>	\$((9.30)) <u>9.55</u>	\$((6.30)) <u>6.45</u>	\$((8.80)) <u>9.05</u>
7 p.m. to 9 p.m.	\$((4.85)) <u>4.95</u>	\$((8.10)) <u>8.30</u>	\$((5.10)) <u>5.20</u>	\$((7.60)) <u>7.80</u>
9 p.m. to 11 p.m.	\$((3.45)) <u>3.55</u>	\$((6.65)) <u>6.80</u>	\$((3.70)) <u>3.80</u>	\$((6.15)) <u>6.30</u>
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Saturdays and Sundays ⁴	Good To Go! TM Pass ¹	Pay By Mail ¹	Pay By Plate ²	Short-Term Account ³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 8 a.m.	\$((2.35)) <u>2.40</u>	\$((5.60)) <u>5.75</u>	\$((2.60)) <u>2.65</u>	\$((5.10)) <u>5.25</u>
8 a.m. to 11 a.m.	\$((3.55)) <u>3.65</u>	\$((6.75)) <u>6.90</u>	\$((3.80)) <u>3.90</u>	\$((6.25)) <u>6.40</u>
11 a.m. to 6 p.m.	\$((4.70)) <u>4.80</u>	\$((8.00)) <u>8.20</u>	\$((4.95)) <u>5.05</u>	\$((7.50)) <u>7.70</u>
6 p.m. to 9 p.m.	\$((3.55)) <u>3.65</u>	\$((6.75)) <u>6.90</u>	\$((3.80)) <u>3.90</u>	\$((6.25)) <u>6.40</u>
9 p.m. to 11 p.m.	\$((2.35)) <u>2.40</u>	\$((5.60)) <u>5.75</u>	\$((2.60)) <u>2.65</u>	\$((5.10)) <u>5.25</u>
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Notes:

¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.²For this type of payment method, the customer is charged the Good to Go!TM Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.⁴The weekend rates will be assessed ~~((for the following holidays))~~ on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE 6
SR 520 BRIDGE
FIVE-AXLE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go! TM Pass ¹	Pay By Mail ¹	Pay By Plate ²	Short-Term Account ³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 6 a.m.	\$((4.30)) <u>4.40</u>	\$((8.35)) <u>8.55</u>	\$((4.55)) <u>4.65</u>	\$((7.85)) <u>8.05</u>
6 a.m. to 7 a.m.	\$((7.55)) <u>7.75</u>	\$((11.60)) <u>11.90</u>	\$((7.80)) <u>8.00</u>	\$((11.10)) <u>11.40</u>
7 a.m. to 9 a.m.	\$((9.45)) <u>9.70</u>	\$((13.50)) <u>13.85</u>	\$((9.70)) <u>9.95</u>	\$((13.00)) <u>13.35</u>
9 a.m. to 10 a.m.	\$((7.55)) <u>7.75</u>	\$((11.60)) <u>11.90</u>	\$((7.80)) <u>8.00</u>	\$((11.10)) <u>11.40</u>
10 a.m. to 2 p.m.	\$((6.10)) <u>6.25</u>	\$((10.15)) <u>10.40</u>	\$((6.35)) <u>6.50</u>	\$((9.65)) <u>9.90</u>
2 p.m. to 3 p.m.	\$((7.55)) <u>7.75</u>	\$((11.60)) <u>11.90</u>	\$((7.80)) <u>8.00</u>	\$((11.10)) <u>11.40</u>
3 p.m. to 6 p.m.	\$((9.45)) <u>9.70</u>	\$((13.50)) <u>13.85</u>	\$((9.70)) <u>9.95</u>	\$((13.00)) <u>13.35</u>
6 p.m. to 7 p.m.	\$((7.55)) <u>7.75</u>	\$((11.60)) <u>11.90</u>	\$((7.80)) <u>8.00</u>	\$((11.10)) <u>11.40</u>
7 p.m. to 9 p.m.	\$((6.10)) <u>6.25</u>	\$((10.15)) <u>10.40</u>	\$((6.35)) <u>6.50</u>	\$((9.65)) <u>9.90</u>
9 p.m. to 11 p.m.	\$((4.30)) <u>4.40</u>	\$((8.35)) <u>8.55</u>	\$((4.55)) <u>4.65</u>	\$((7.85)) <u>8.05</u>
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Saturdays and Sundays⁴	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 8 a.m.	\$((2.95)) <u>3.00</u>	\$((7.00)) <u>7.20</u>	\$((3.20)) <u>3.25</u>	\$((6.50)) <u>6.70</u>
8 a.m. to 11 a.m.	\$((4.45)) <u>4.55</u>	\$((8.50)) <u>8.70</u>	\$((4.70)) <u>4.80</u>	\$((8.00)) <u>8.20</u>
11 a.m. to 6 p.m.	\$((5.95)) <u>6.10</u>	\$((9.95)) <u>10.20</u>	\$((6.20)) <u>6.35</u>	\$((9.45)) <u>9.70</u>
6 p.m. to 9 p.m.	\$((4.45)) <u>4.55</u>	\$((8.50)) <u>8.70</u>	\$((4.70)) <u>4.80</u>	\$((8.00)) <u>8.20</u>
9 p.m. to 11 p.m.	\$((2.95)) <u>3.00</u>	\$((7.00)) <u>7.20</u>	\$((3.20)) <u>3.25</u>	\$((6.50)) <u>6.70</u>
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Notes:

¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.²For this type of payment method, the customer is charged the Good to Go!TM Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.⁴The weekend rates will be assessed ((for the following holidays)) on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

TABLE 7
SR 520 BRIDGE
SIX-AXLE OR MORE VEHICLE TOLL RATES

Mondays through Fridays	Good To Go!TM Pass¹	Pay By Mail¹	Pay By Plate²	Short-Term Account³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 6 a.m.	\$((5.20)) <u>5.35</u>	\$((10.00)) <u>10.25</u>	\$((5.45)) <u>5.60</u>	\$((9.50)) <u>9.75</u>
6 a.m. to 7 a.m.	\$((9.05)) <u>9.30</u>	\$((13.90)) <u>14.25</u>	\$((9.30)) <u>9.55</u>	\$((13.40)) <u>13.75</u>
7 a.m. to 9 a.m.	\$((11.35)) <u>11.65</u>	\$((16.15)) <u>16.55</u>	\$((11.60)) <u>11.90</u>	\$((15.65)) <u>16.05</u>
9 a.m. to 10 a.m.	\$((9.05)) <u>9.30</u>	\$((13.90)) <u>14.25</u>	\$((9.30)) <u>9.55</u>	\$((13.40)) <u>13.75</u>
10 a.m. to 2 p.m.	\$((7.30)) <u>7.50</u>	\$((12.10)) <u>12.40</u>	\$((7.55)) <u>7.75</u>	\$((11.60)) <u>11.90</u>
2 p.m. to 3 p.m.	\$((9.05)) <u>9.30</u>	\$((13.90)) <u>14.25</u>	\$((9.30)) <u>9.55</u>	\$((13.40)) <u>13.75</u>
3 p.m. to 6 p.m.	\$((11.35)) <u>11.65</u>	\$((16.15)) <u>16.55</u>	\$((11.60)) <u>11.90</u>	\$((15.65)) <u>16.05</u>
6 p.m. to 7 p.m.	\$((9.05)) <u>9.30</u>	\$((13.90)) <u>14.25</u>	\$((9.30)) <u>9.55</u>	\$((13.40)) <u>13.75</u>
7 p.m. to 9 p.m.	\$((7.30)) <u>7.50</u>	\$((12.10)) <u>12.40</u>	\$((7.55)) <u>7.75</u>	\$((11.60)) <u>11.90</u>
9 p.m. to 11 p.m.	\$((5.20)) <u>5.35</u>	\$((10.00)) <u>10.25</u>	\$((5.45)) <u>5.60</u>	\$((9.50)) <u>9.75</u>
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Saturdays and Sundays ⁴	Good To Go! TM Pass ¹	Pay By Mail ¹	Pay By Plate ²	Short-Term Account ³
Midnight to 5 a.m.	\$0.00	\$0.00	\$0.00	\$0.00
5 a.m. to 8 a.m.	\$(3.55) 3.65	\$(8.40) 8.60	\$(3.80) 3.90	\$(7.90) 8.10
8 a.m. to 11 a.m.	\$(5.35) 5.50	\$(10.20) 10.45	\$(5.60) 5.75	\$(9.70) 9.95
11 a.m. to 6 p.m.	\$(7.10) 7.30	\$(11.95) 12.25	\$(7.35) 7.55	\$(11.45) 11.75
6 p.m. to 9 p.m.	\$(5.35) 5.50	\$(10.20) 10.45	\$(5.60) 5.75	\$(9.70) 9.95
9 p.m. to 11 p.m.	\$(3.55) 3.65	\$(8.40) 8.60	\$(3.80) 3.90	\$(7.90) 8.10
11 p.m. to 11:59 p.m.	\$0.00	\$0.00	\$0.00	\$0.00

Notes:

¹The rate for electronic tolls has been rounded to the nearest five cents, as needed.²For this type of payment method, the customer is charged the Good to Go!TM Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.⁴The weekend rates will be assessed ~~((for the following holidays))~~ on the days on which holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.**WSR 15-12-013****PERMANENT RULES****TRANSPORTATION COMMISSION**

[Filed May 21, 2015, 2:15 p.m., effective July 1, 2015]

Effective Date of Rule: July 1, 2015.

Purpose: The commission is required to establish toll rates for the SR 16 Tacoma Narrows Bridge that are adequate to cover debt payments, operations, insurance and maintenance costs. The purpose of the proposed rule is to amend WAC 468-270-070 establishing toll rates on the SR 16 Tacoma Narrows Bridge.

Citation of Existing Rules Affected by this Order: Amending WAC 468-270-070.

Statutory Authority for Adoption: Chapter 47.46 RCW and RCW 47.56.165.

Adopted under notice filed as WSR 15-08-008 on March 23, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 20, 2015.

Reema Griffith
Executive Director

AMENDATORY SECTION (Amending WSR 13-12-006, filed 5/23/13, effective 7/1/13)

WAC 468-270-070 What are the toll rates on the Tacoma Narrows Bridge? ~~((Subject to the legislature's redelegation of authority,))~~ The toll ~~((charges))~~ rates for the Tacoma Narrows Bridge are shown in Tables 1 and 2.

Table 1, Effective July 1, ~~((2013))~~ 2015
Tacoma Narrows Bridge Toll Rates

Vehicle Axles	Good to Go! TM Pass ¹	Cash ¹	Pay By Mail ¹	Pay by Plate ²	Short Term Account ³
((2	\$4.25	\$5.25	\$6.25	\$4.50	\$5.75
3	\$6.40	\$7.90	\$9.40	\$6.65	\$8.90
4	\$8.50	\$10.50	\$12.50	\$8.75	\$12.00
5	\$10.65	\$13.15	\$15.65	\$10.90	\$15.15

Vehicle Axles	Good to Go!™ Pass ¹	Cash ¹	Pay By Mail ¹	Pay by Plate ²	Short Term Account ³
<u>6</u>	<u>\$12.75</u>	<u>\$15.75</u>	<u>\$18.75</u>	<u>\$13.00</u>	<u>\$18.25))</u>
<u>2</u>	<u>\$5.00</u>	<u>\$6.00</u>	<u>\$7.00</u>	<u>\$5.25</u>	<u>\$6.50</u>
<u>3</u>	<u>\$7.50</u>	<u>\$9.00</u>	<u>\$10.50</u>	<u>\$7.75</u>	<u>\$10.00</u>
<u>4</u>	<u>\$10.00</u>	<u>\$12.00</u>	<u>\$14.00</u>	<u>\$10.25</u>	<u>\$13.50</u>
<u>5</u>	<u>\$12.50</u>	<u>\$15.00</u>	<u>\$17.50</u>	<u>\$12.75</u>	<u>\$17.00</u>
<u>6</u>	<u>\$15.00</u>	<u>\$18.00</u>	<u>\$21.00</u>	<u>\$15.25</u>	<u>\$20.50</u>

Notes: ¹The rate has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.

**Table 2, Effective July 1, ((2014)) 2016
Tacoma Narrows Bridge Toll Rates**

Vehicle Axles	Good to Go!™ Pass ¹	Cash ¹	Pay By Mail ¹	Pay by Plate ²	Short Term Account ³
((2	<u>\$4.50</u>	<u>\$5.50</u>	<u>\$6.50</u>	<u>\$4.75</u>	<u>\$6.00</u>
3	<u>\$6.75</u>	<u>\$8.25</u>	<u>\$9.75</u>	<u>\$7.00</u>	<u>\$9.25</u>
4	<u>\$9.00</u>	<u>\$11.00</u>	<u>\$13.00</u>	<u>\$9.25</u>	<u>\$12.50</u>
5	<u>\$11.25</u>	<u>\$13.75</u>	<u>\$16.25</u>	<u>\$11.50</u>	<u>\$15.75</u>
6	<u>\$13.50</u>	<u>\$16.50</u>	<u>\$19.50</u>	<u>\$13.75</u>	<u>\$19.00))</u>
<u>2</u>	<u>\$5.50</u>	<u>\$6.50</u>	<u>\$7.50</u>	<u>\$5.75</u>	<u>\$7.00</u>
<u>3</u>	<u>\$8.25</u>	<u>\$9.75</u>	<u>\$11.25</u>	<u>\$8.50</u>	<u>\$10.75</u>
<u>4</u>	<u>\$11.00</u>	<u>\$13.00</u>	<u>\$15.00</u>	<u>\$11.25</u>	<u>\$14.50</u>
<u>5</u>	<u>\$13.75</u>	<u>\$16.25</u>	<u>\$18.75</u>	<u>\$14.00</u>	<u>\$18.25</u>
<u>6</u>	<u>\$16.50</u>	<u>\$19.50</u>	<u>\$22.50</u>	<u>\$16.75</u>	<u>\$22.00</u>

Notes: ¹The rate has been rounded to the nearest five cents, as needed.

²For this type of payment method, the customer is charged the Good to Go!™ Pass toll rate plus a \$0.25 fee as provided in WAC 468-270-300.

³For this type of payment method, the customer is given a \$0.50 discount off the Pay By Mail toll rate as provided in WAC 468-270-300.

**WSR 15-12-015
PERMANENT RULES
DEPARTMENT OF AGRICULTURE**

[Filed May 21, 2015, 3:32 p.m., effective June 21, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To correct errors contained in the existing standards for asparagus, chapter 16-409 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 16-409-022 and 16-409-026.

Statutory Authority for Adoption: RCW 15.17.030, 15.17.050.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 15-07-096 on March 17, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 21, 2015.

Kirk Robinson
Acting Deputy Director

AMENDATORY SECTION (Amending WSR 07-06-047, filed 3/1/07, effective 4/1/07)

WAC 16-409-022 Asparagus grades. (1) The following table identifies and describes the asparagus grades used in Washington state:

Washington Asparagus Grades:					
Stalk Characteristics:	"Extra Fancy Grade Asparagus"	"Extra Fancy Grade Asparagus Tips"	"Fancy Grade Asparagus"	"Consumer Pack Asparagus"	"Culls"
Stalks must be:					
(a) Clean;	Yes	Yes	Yes	Yes	No
(b) Fresh;	Yes	Yes	Yes	Yes	No
(c) Fairly uniform in length;	Yes	Yes	Yes	Yes	No
(d) Well trimmed;	Yes	Yes	No	No	No
(e) Fairly well trimmed;	No	No	Yes	Yes	No
(f) Fairly straight;	Yes	Yes	No	Yes	No
(g) Not wilted;	Yes	Yes	Yes	Yes	No
(h) Not badly misshapen;	No	No	Yes	No	No
(i) Free from decay;	Yes	Yes	Yes	Yes	No
(j) Free from damage caused by spreading or broken tips, dirt, disease, insects, or mechanical or other means;	Yes	Yes	((Yes)) <u>See subsection (3) of this section</u>	Yes	No
(k) At least eighty-five percent green in color;	Yes	No	Yes	Yes	No
(l) All green.	No	Yes	No	No	No

(2) "Culls" describes asparagus that:

(a) Is not graded in conformity with Washington extra fancy, Washington extra fancy tips, Washington fancy, Washington consumer pack, or U.S. No. 1, or U.S. No. 2; and

(b) Must not be marketed if more than ten percent by count of the stalks show white in excess of two inches.

(3) "Fancy grade asparagus" is free from serious damage caused by spreading or broken tips, dirt, disease, insects or mechanical or other means.

AMENDATORY SECTION (Amending WSR 07-06-047, filed 3/1/07, effective 4/1/07)

WAC 16-409-026 Adoption of U.S. standards for fresh asparagus as Washington state standards. (1) In addition to the Washington state fresh asparagus standards contained in this chapter, the Washington state department of agriculture has adopted, as Washington state standards, modified United States fresh asparagus standards for U.S. grades No. 1 and No. 2 as specified under the United States Department of Agriculture, Agricultural Marketing Service, United States Standards for Grades of Fresh Asparagus, Secs. 51.3720 to 51.3732; effective February 23, 2006.

(2) The department's modifications to the U.S. standards are as follows:

(a) U.S. No. 1 must meet or exceed Washington extra fancy grade requirements.

(b) U.S. No. 2 must meet or exceed Washington fancy grade requirements.

WSR 15-12-020

PERMANENT RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed May 22, 2015, 1:37 p.m., effective June 22, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapters 246-886 and 246-887 WAC, consolidating rules related to chemical capture programs and repealing WAC 246-887-220 through 246-887-290. The repealed rule language is moved under chapter 246-886 WAC (WAC 246-886-150 through 246-886-220), animal control, legend drugs and controlled substances, without material change to simplify access by those who must comply. Reference[s] to the board of pharmacy were corrected to the pharmacy quality assurance commission.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-887-220, 246-887-230, 246-887-240, 246-887-250, 246-887-260, 246-887-270, 246-887-280 and 246-887-290; and amending WAC 246-886-010, 246-886-020, 246-886-040, 246-886-080, and 246-886-100.

Statutory Authority for Adoption: RCW 18.64.005, 69.50.320, and 69.41.080.

Other Authority: HB 1609 (chapter 19, Laws of 2013).

Adopted under notice filed as WSR 14-23-040 on November 12, 2014.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 8, Amended 0, Repealed 8.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 8, Amended 5, Repealed 8.

Date Adopted: January 29, 2015.

A. J. Linggi, R.Ph. MBA, Chair
Pharmacy Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 12-21-118, filed 10/23/12, effective 11/23/12)

WAC 246-886-010 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates otherwise:

(1) "Animal control agency" means any agency authorized by law to euthanize or destroy animals; to sedate animals prior to euthanasia or to engage in chemical capture of animals.

(2) "Approved legend drugs" means any legend drug approved by the ~~((board))~~ commission for use by registered humane societies or animal control agencies for the sole purpose of sedating animals prior to euthanasia, when necessary, and for use in chemical capture programs.

(3) ~~((Board means the Washington state board of pharmacy.~~

~~(4))~~ "Chemical capture programs" means wildlife management programs registered under RCW 69.50.320 and 69.41.080 to use approved legend drugs and controlled substance for chemical capture. Chemical capture includes immobilization of individual animals in order for the animals to be moved, treated, examined, or for other legitimate purposes.

(4) "Commission" means the Washington state pharmacy quality assurance commission.

(5) "Controlled substances" means a drug, substance, or immediate precursor in Schedule I through V of Article II of chapter 69.50 RCW and Schedule I through V of chapter 246-887 WAC.

(6) "Humane society" means a nonprofit organization, association, or corporation, the primary purpose of which is to prevent cruelty to animals, place unwanted animals in homes, provide other services relating to "lost and found" pets, and provide animal care education to the public, as well as sponsoring a neutering program to control the animal population.

(7) "Legend drugs" means any drugs which are required by state law or regulation of the state ~~((board of))~~ pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(8) "Registered entity" means any humane society or animal control agency registered under RCW 69.50.310.

AMENDATORY SECTION (Amending WSR 12-21-118, filed 10/23/12, effective 11/23/12)

WAC 246-886-020 Registration. (1) Humane societies and animal control agencies registered with the ~~((board))~~ commission under RCW 69.50.310 may purchase, possess, and administer sodium pentobarbital and approved legend drugs as provided in RCW 69.41.080.

(2) To apply for registration a humane society or animal control agency shall submit to the ~~((board))~~ commission a completed application for registration on forms provided by the ~~((board))~~ commission.

(3) A registered humane society or animal control agency shall:

(a) Employ at least one individual who has completed a training program described in WAC 246-886-040;

(b) Designate a responsible person as defined in WAC 246-886-060;

(c) Maintain written policies and procedures available for inspection by the ~~((board))~~ commission that includes processes to:

(i) Require completion of approved training as defined in WAC 246-886-040 by each of the agency's agents or personnel who possess, and administer approved legend drugs or sodium pentobarbital, prior to being approved to administer such drugs;

(ii) Establish a system for the secure storage of all drugs to prevent access by unauthorized personnel to guard against theft and diversion;

(iii) Establish a system for accountability of access, use, and stocking of drug inventory;

(iv) Ensure the proper disposal of all drugs in compliance with state and federal laws and rules; and

(v) Establish a method to investigate and report the theft, loss, or diversion of approved legend drugs and sodium pentobarbital, in compliance with state and federal laws and rules.

AMENDATORY SECTION (Amending WSR 12-21-118, filed 10/23/12, effective 11/23/12)

WAC 246-886-040 Training of personnel. (1) Personnel of a registered humane society or animal control agency may administer approved legend drugs and sodium pentobarbital if the individual:

(a) Has been approved by the registered entity to administer these drugs; and

(b) Has completed a ~~((board-approved))~~ commission approved training program or training that is substantially equivalent.

(2) Application for approval of a training program must be submitted to the ~~((board))~~ commission prior to the initiation of training.

(3) A training program must:

(a) Use a manual approved by the ~~((board))~~ commission;

(b) Be at least four hours in length;

(c) Be taught by a licensed veterinarian or by a person who has completed an approved training program taught by a licensed veterinarian;

(d) Require both didactic and practical training in the use of both approved legend drugs and sodium pentobarbital;

(e) Require a passing score of no less than seventy-five percent on a final examination; and

(f) Include, but not be limited to, the following topics:

(i) Anatomy and physiology;

(A) Methods of euthanasia;

(B) Routes of drug administration;

(C) Use of sedatives;

(D) Drug dosing;

(E) Use of restraints; and

(F) Process and verification of death;

(ii) Pharmacology of the drugs;

(iii) Indications, contraindications, and adverse effects;

(iv) Human hazards;

(v) Disposal of medical waste (needles, syringes, etc.);

(vi) Recordkeeping and security requirements; and

(vii) Applicable federal and state laws and rules.

(4) Training programs shall retain a list of persons who have successfully completed the program for a minimum of two years.

(5) The ~~((board))~~ commission shall maintain a registry of approved training programs and manuals. Interested persons may request a copy of the registry by contacting the ~~((board))~~ commission.

AMENDATORY SECTION (Amending WSR 12-21-118, filed 10/23/12, effective 11/23/12)

WAC 246-886-080 Recordkeeping and reports. (1) A registered humane society or animal control agency must use a bound logbook with consecutively numbered pages to record the receipt, use, and disposition of approved legend drugs and sodium pentobarbital. Only one drug may be recorded on any single page.

(2) The logbook must have sufficient detail to allow an audit of the drug usage to be performed and must include:

(a) Date and time of administration;

(b) Route of administration;

(c) Identification number or other identifier assigned to the animal;

(d) Estimated weight of the animal;

(e) Estimated age and breed of the animal;

(f) Name of drug used;

(g) Dose of drug administered;

(h) Amount of drug wasted; and

(i) Initials of the primary person administering the drug.

(3) The logbook may omit subsections (2)(b), (d), and (e) of this section if the information is recorded in other records cross-referenced by the animal identification number or other assigned identifier.

(4) Personnel of the registered entity shall document any errors or discrepancies in the drug inventory in the logbook. He or she shall report the findings to the responsible supervisor for investigation.

(5) The registered entity shall report any unresolved discrepancies in writing to the ~~((board))~~ commission within seven days, and to the federal Drug Enforcement Administration if the loss includes a controlled substance.

(6) The designated individual, as defined in WAC 246-886-060, shall perform a physical inventory or count of approved legend drugs and sodium pentobarbital every six

months. The physical inventory must be reconciled with the logbook.

(7) The supervisor or designated individual shall destroy legend drugs that are unfit for use due to contamination or having passed its expiration date. A second member of the staff shall witness drugs that are destroyed or wasted. The records of the destruction of drugs are documented in the logbook with the date of the event and signatures of the individuals involved.

(8) A registered entity shall return all unwanted or unused sodium pentobarbital to the manufacturer or destroy them in accordance with the rules and requirements of the ~~((board))~~ commission, the federal Drug Enforcement Administration, and the department of ecology.

(9) A registered entity shall maintain a written list of all authorized personnel who have demonstrated the qualifications to possess and administer approved legend drugs, and sodium pentobarbital.

(10) All records of the registered entity must be available for inspection by the ~~((board))~~ commission or any officer who is authorized to enforce this chapter.

(11) The registered entity shall maintain the logbook and other related records for a minimum of two years.

AMENDATORY SECTION (Amending WSR 12-21-118, filed 10/23/12, effective 11/23/12)

WAC 246-886-100 Violations. The ~~((board))~~ commission may suspend or revoke a registration issued under chapter 69.50 RCW if the ~~((board))~~ commission determines that any agent or employee of a registered humane society or animal control agency has purchased, possessed, or administered legend drugs in violation of RCW 69.41.080 or 69.50.310, or this chapter or has otherwise demonstrated inadequate knowledge in the administration of legend drugs. The ~~((board's))~~ commission's revocation or suspension of a registration would restrict the registered entity's ability to use both approved legend drugs and sodium pentobarbital.

NEW SECTION

WAC 246-886-150 Chemical capture programs. Purpose. Wildlife management programs often require the use of controlled substances and legend drugs for chemical capture programs. The purpose of these rules is to set requirements for the use of controlled substances and approved legend drugs in department of fish and wildlife chemical capture programs. Chemical capture includes immobilization of individual animals in order for the animals to be moved, treated, examined, or other legitimate purpose.

NEW SECTION

WAC 246-886-160 Registration requirements. (1) The department of fish and wildlife may apply to the commission for a limited registration under chapter 69.50 RCW (Uniform Controlled Substances Act) to purchase, possess, and administer controlled substances for use in chemical capture programs.

(2) Each department of fish and wildlife field office that stores controlled substances must register with the commis-

sion. The department of fish and wildlife shall notify the commission in writing of the names of individuals who are authorized to possess and administer controlled substances.

(3) In addition, the department of fish and wildlife shall designate one individual at each field office who shall be responsible for the ordering, possession, safe storage, and utilization of controlled substances. The department of fish and wildlife shall notify the commission in writing of the name of the designated individual.

(4) Controlled substances obtained under this limited registration shall be for veterinary use only.

NEW SECTION

WAC 246-886-170 Authorized individuals. To be eligible to possess and/or administer controlled substances and approved legend drugs, individuals must successfully complete an approved training program. The following individuals are authorized to possess and administer controlled substances:

- (1) Department of fish and wildlife officers;
- (2) Department of fish and wildlife biologists; and
- (3) Department of fish and wildlife veterinarians.

NEW SECTION

WAC 246-886-190 Controlled substances training. The department of fish and wildlife shall establish written policies and procedures to ensure that officers and biologists who administer controlled substances and approved legend drugs have received sufficient training. The training shall include, at a minimum, the safe handling and administration of controlled substances and the potential hazards. Officers and biologists must be able to demonstrate adequate knowledge of the potential hazards and proper techniques to be used in administering controlled substances.

The written policies and procedures shall be approved by the commission. Any amendments or deletions to the policies and procedures must be approved by the commission prior to implementation.

NEW SECTION

WAC 246-886-200 Storage requirements. Each registered location shall store the controlled substances in a securely locked, substantially constructed cabinet. Keys to the storage area shall be restricted to those persons authorized by the department of fish and wildlife to possess and administer the drugs.

Schedule II controlled substances shall be stored in a safe or steel cabinet equivalent to a U.S. Government Class V security container.

In addition to field offices, the department of fish and wildlife may allow officers, biologists, and veterinarians to possess a supply of controlled substances for use in the field. The field supply shall be stored in a locked metal box securely attached to a vehicle. The designated officer, biologist, or veterinarian shall be responsible to ensure that the controlled substances are accounted for at all times. All receipts and use of controlled substances from the field sup-

ply shall be recorded in a bound logbook with sequentially numbered pages.

NEW SECTION

WAC 246-886-210 Controlled substances records and reports. (1) The department of fish and wildlife shall be responsible for maintaining all records and submitting all reports required by federal or state law or regulation.

(2) A bound logbook with sequentially numbered pages shall be kept documenting the receipt and disposition of all controlled substances. In addition, all receipts and invoices shall be maintained for a period of two years.

(3) All records shall be available for inspection by the commission or any officer who is authorized to enforce this chapter.

(4) A physical inventory of approved controlled substances shall be performed, reconciled, and documented every twelve months. The inventory shall be signed and dated by the designated individual.

(5) Any discrepancy in the actual inventory of approved controlled substances shall be documented and reported immediately to the responsible supervisor who shall investigate the discrepancy. Any discrepancy that has not been corrected within seven days shall be reported in writing to the commission and the Drug Enforcement Administration (DEA).

(6) Unwanted or unused controlled substances shall be returned to the manufacturer or destroyed in accordance with the rules and requirements of the commission, the Drug Enforcement Administration, and the department of ecology.

NEW SECTION

WAC 246-886-220 Approved controlled substances. The following controlled substances are approved for use by officers and biologists of the department of fish and wildlife for chemical capture programs:

- (1) Butorphanol;
- (2) Diazepam (Valium);
- (3) Diprenorphine;
- (4) Carfentanil (Wildnil);
- (5) Fentanyl;
- (6) Ketamine;
- (7) Midazolam; and
- (8) Tiletamine and zolazepam (Telazol).

NEW SECTION

WAC 246-886-230 Controlled substances registration disciplinary actions. In addition to any criminal or civil liabilities that may occur, the commission may suspend or revoke a registration upon determination that the person administering controlled substances has not demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering controlled substances.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-887-220 Chemical capture programs.
- WAC 246-887-230 Registration requirements.
- WAC 246-887-240 Authorized individuals.
- WAC 246-887-250 Controlled substances training.
- WAC 246-887-260 Storage requirements.
- WAC 246-887-270 Controlled substances records and reports.
- WAC 246-887-280 Approved controlled substances.
- WAC 246-887-290 Controlled substances registration disciplinary actions.

WSR 15-12-021
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed May 22, 2015, 1:39 p.m., effective July 1, 2015]

Effective Date of Rule: July 1, 2015.

Purpose: The community services division, economic services administration is creating WAC 388-478-0006 to establish the clothing, personal maintenance, and necessary incidentals (CPI) payment standard for cash assistance programs.

Currently, the department relies on WAC 182-515-1500 and 182-513-1300 to establish the CPI payment standards for cash assistance. The health care authority plans to repeal both rules, since they pertain directly to cash assistance. The department is establishing CPI standards in WAC 388-478-0006, as supported by RCW 74.04.770.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.770, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, and 74.62.030.

Adopted under notice filed as WSR 15-08-063 on March 27, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: May 21, 2015.

Katherine I. Vasquez
Rules Coordinator

NEW SECTION

WAC 388-478-0006 The clothing, personal maintenance, and necessary incidentals (CPI) payment standard for cash assistance. Payment standards for assistance units (AU) in certain facilities and medical institutions are based on the need for clothing, personal maintenance, and necessary incidentals (CPI).

(1) The CPI cash assistance payment standard for recipients of cash assistance is:

(a) Forty-one dollars and sixty-two cents for eligible persons in medical institutions as defined in WAC 182-500-0050; or

(b) Thirty-eight dollars and eighty-four cents for eligible persons in one of the following facilities as defined in WAC 182-513-1100:

(i) Adult residential care (ARC) facility;

(ii) Adult residential rehabilitation centers (ARRC);

(iii) Adult residential treatment facility (ARTF);

(iv) Enhanced adult residential care facility (EARC); or

(v) Developmental disability administration (DDA) group home facilities.

(2) Refer to WAC 388-478-0010 when living situation is other than the medical institutions defined in WAC 182-500-0050 and group facilities defined in WAC 182-513-1100.

WSR 15-12-023
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed May 26, 2015, 9:44 a.m., effective June 26, 2015]

Purpose: Amends WAC 181-77-041 to permit legally deaf individuals to pursue career and technical education certification to teach American sign language (ASL). Requires teachers of ASL to meet professional standards.

Citation of Existing Rules Affected by this Order: Amending WAC 181-77-041.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 15-07-012 on March 9, 2015.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 1 [0].

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 1 [0].

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 1 [0]; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 21, 2015.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 08-16-004, filed 7/23/08, effective 8/23/08)

WAC 181-77-041 Requirements for candidates seeking career and technical education certification on the basis of business and industry work experience. Candidates for certification who have not completed approved programs set forth in WAC 181-82-322 shall complete the following requirements in addition to those set forth in WAC 181-79A-150 (1) and (2) and 181-79A-155 (1) and (2).

(1) Initial.

(a) Candidates for the initial certificate shall provide documentation of paid occupational experience in the specific career and technical education subcategory for which certification is sought: Provided, That individuals seeking the initial certification for the sole purpose of instruction of American sign language who are deaf, hard of hearing per RCW 43.20A.720, or who's primary method of communication is American sign language, may have the requirements for interpreter experience waived by the certification office of the superintendent of public instruction.

(i) Three years (six thousand hours) is required.

(ii) One year (two thousand hours) must be within the past six years.

(iii) If all or part of the two thousand hours is more than six years old, an additional three hundred hours of recent (occurring in the last two years) occupational experience is required.

(iv) Individuals seeking this certification solely for teaching American sign language must also hold or earn the national interpreter certification, certified deaf interpreter certificate, the American sign language teachers association certificate, or meet the standard required of interpreters for the deaf per RCW 28A.410.271.

(b) Candidates for the initial certificate shall complete a professional educator standards board approved program under WAC 181-77A-029 in which they demonstrate competence in the general standards for all career and technical education teacher certificate candidates pursuant to WAC 181-77A-165, which include but are not limited to knowledge and skills in the following areas:

- (i) General and specific safety;
- (ii) Career and technical education teaching methods;
- (iii) Occupational analysis;
- (iv) Course organization and curriculum design;
- (v) Philosophy of vocational education;
- (vi) Personal student development and leadership techniques.

(c) Candidates for the initial certificate shall also demonstrate knowledge and skills in the following areas:

(i) School law;

(ii) Issues related to abuse as specified in WAC 181-77A-165(7).

(d) In addition, candidates for initial certification in career choices or coordinator of worksite learning shall demonstrate competency in knowledge and skills described in WAC 181-77A-180.

(2) Initial renewal. Candidates for renewal of the initial certificate must complete three quarter hours of credit or thirty clock hours of career and technical education educator training in the subject matter certified to teach since the initial certificate was issued or renewed.

(3) Continuing.

(a) Candidates for the continuing certificate shall have in addition to the requirements for the initial certificate at least nine quarter hours or ninety clock hours of career and technical education educator training in the career and technical education subject matter to be certified completed subsequent to the issuance of the initial certificate.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years of teaching/coordination in the career and technical education subject matter certified to teach with an authorized employer-i.e., school district(s) or skills center(s).

(4) Continuing certificate renewal.

(a) Candidates for renewal of the continuing certificate shall complete since the previous continuing certificate was issued one of the following:

(i) Six quarter hours or sixty clock hours of career and technical education educator training;

(ii) Three quarter hours or thirty clock hours of career and technical education educator training and three quarter hours or thirty clock hours of technical education/upgrading;

(iii) Three quarter hours or thirty clock hours of career and technical education educator training and three hundred hours of occupational experience.

(b) Beginning January 2018, renewal of continuing certificates under this section specifically for teaching American sign language will require the national interpreter certification, certified deaf interpreter certificate, the American sign language teachers association certificate, or meet the standard required of interpreters of the deaf per RCW 28A.410.-271.

WSR 15-12-041

PERMANENT RULES

LOWER COLUMBIA COLLEGE

[Filed May 27, 2015, 2:37 p.m., effective June 27, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This is an update of the student code of conduct policy to bring it into alignment with the current Violence Against Women Act (VAWA), Department of Education Dear Colleague letter dated April 2011. This repeals the existing code of conduct and replaces it with procedures in compliance with VAWA, federal guidelines and state law.

New rules contain substantial reorganization of existing material and additions of new materials.

Citation of Existing Rules Affected by this Order:
Repealing chapter 132M-121 WAC.

Statutory Authority for Adoption: RCW 28B.50.140 and 42.56.040.

Other Authority: Violence Against Women Reauthorization Act of 2013 and Title IX of the Educational Amendments of 1972.

Adopted under notice filed as WSR 15-07-067 on March 16, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 26, Amended 0, Repealed 42; Federal Rules or Standards: New 26, Amended 0, Repealed 42; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 26, Amended 0, Repealed 42.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 26, Amended 0, Repealed 42.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 20, 2015.

Kendra Sprague
Interim Vice-President of Student Success
Director of HR and Legal Affairs

Chapter 132M-125 WAC

CODE OF STUDENT CONDUCT

NEW SECTION

WAC 132M-125-005 Student responsibilities. (1) Lower Columbia College, an agency of the state of Washington, exists for the development of students and to provide a variety of educational opportunities, and the opportunity to examine cultural, social, and recreational aspects of society. Lower Columbia College, as an institution of society, must maintain conditions conducive to the effective performance of its functions. Consequently, Lower Columbia College has special expectations regarding the conduct of students. Student conduct that detracts from, or interferes with, the accomplishment of college purposes is not acceptable.

(2) The student is, first of all, a member of the community at large, and as such has the rights and responsibilities of any citizen. In addition, admission to Lower Columbia College carries with it the presumption that students will conduct themselves as responsible members of the college community. This includes an expectation that students will obey the law, will comply with rules and regulations of the college, will maintain a high standard of integrity and honesty, and will respect the rights, privileges and property of other members of the college community. Lower Columbia College expects an environment of integrity, respect, collaboration,

cooperation, diversity, and innovation that fosters personal growth, academic excellence and accountability.

(3) Students are responsible for their conduct. These standards of conduct for students promote Lower Columbia College's educational purposes and provide students a full understanding of their rights and responsibilities. Sanctions for violations of the standards of conduct for students will be administered under this chapter. When violations of laws of the state of Washington and/or the United States are also involved, the college may refer such matters to proper authorities and in the case of minors, this conduct may be referred to parents or legal guardians.

NEW SECTION

WAC 132M-125-010 Authority. The board of trustees, acting pursuant to RCW 28B.10.528 and 28B.50.140(14), delegates to the president of the college the authority to administer disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice-president of student success or designee. The student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

NEW SECTION

WAC 132M-125-015 Definitions. The following definitions shall apply for purposes of this student conduct code:

(1) "ASLCC" means the associated students of Lower Columbia College as defined in the constitution of that body.

(2) "Assembly" means any overt activity engaged in by one or more persons, the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any person, persons, or group of persons.

(3) "Board" means the board of trustees of community college District No. 13, state of Washington.

(4) "Conduct review officer" is the vice-president of student success or other college administrator designated by the president to be responsible for receiving and for reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code. The president is authorized to reassign any and all of the conduct review officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

(5) "College" means Lower Columbia College and any other college centers or facilities established within Washington state community college District No. 13.

(6) "College community" means trustees, students, staff, faculty, and visitors on college-owned or controlled facilities.

(7) "College facilities" and "college facility" mean and include any and all real and personal property owned, rented, leased or operated by the board of trustees of Washington state community college District No. 13, and shall include all buildings and appurtenances attached thereto and all parking lots and other grounds. College facilities extend to distance education classroom environments, and agencies or institutions that have an educational agreement with the college.

(8) "College official" includes any person employed by the college performing assigned duties.

(9) "College premises" shall include all campuses of the college, wherever located, and includes all land, buildings,

facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

(10) "Complainant" means any person who submits a charge alleging that a student violated the code of student conduct.

(11) "Controlled substance" means and includes any drug or substance as defined in chapter 69.50 RCW as now law or hereafter amended.

(12) "Day" means a weekday, excluding weekends and college holidays.

(13) "Disciplinary action" is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code.

(14) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the student conduct officer. Disciplinary appeals from a suspension in excess of ten days or an expulsion are heard by the student conduct committee. Appeals of all other appealable disciplinary action shall be reviewed through brief adjudicative proceedings.

(15) "Faculty member" and "instructor" mean any employee of community college District No. 13 who is employed on a full-time or part-time basis as a teacher, instructor, counselor or librarian.

(16) "Filing" is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Unless otherwise provided, filing shall be accomplished by:

(a) Hand delivery of the document to the specified college official or college official's assistant; or

(b) Sending the document by e-mail and first class mail to the specified college official's office and college e-mail address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official.

(17) "The president" is the president of the college. The president is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary.

(18) "RCW" means Revised Code of Washington which can be accessed at <http://apps.leg.wa.gov/rcw/>.

(19) "Respondent" is the student against whom disciplinary action is initiated.

(20) "Service" is the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) Sending the document by e-mail and by either certified mail or first class mail to the party's last known address. It is the responsibility of each student to regularly check their official Lower Columbia College e-mail address.

Service is deemed complete upon hand delivery of the document or upon the date the document is e-mailed.

(21) "Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who have been notified of their acceptance for admission, persons who withdraw after allegedly violating the code, or persons who are

not officially enrolled for a particular term but who have a continuing relationship with the college, are considered "students."

(22) "Student conduct officer" is a college administrator designated by the president or vice-president of student success to be responsible for implementing and enforcing the student conduct code. The president or vice-president of student success is authorized to reassign any and all of the student conduct officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

(23) "Student organization" means any number of students who have met the formal requirements of clubs and organizations.

NEW SECTION

WAC 132M-125-020 Statement of jurisdiction. (1)

The student conduct code shall apply to student conduct that occurs:

(a) In or on college facilities;

(b) At or in connection with college sponsored activities; or

(c) Off-campus conduct that in the judgment of the college adversely affects the college community or the pursuit of its objectives.

(2) Jurisdiction extends to, but is not limited to, locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities. Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending.

(3) In addition to initiating discipline proceeding for violation of the student conduct code, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college may proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil proceedings or criminal prosecution.

NEW SECTION

WAC 132M-125-025 Students studying abroad. Students who participate in any college-sponsored or sanctioned international study program shall observe the following:

(1) The laws of the host country;

(2) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying;

(3) Any other agreements related to the student's study program in another country; and

(4) Lower Columbia College's standards of conduct for students.

NEW SECTION

WAC 132M-125-030 Statement of student rights. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy which are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation which is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(d) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including sexual harassment.

(2) Due process.

(a) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in this chapter.

NEW SECTION

WAC 132M-125-035 Prohibited student conduct. The college may impose disciplinary sanctions against a student who commits, or aids, abets, incites, encourages or assists another person to commit, an act(s) of misconduct which include, but are not limited to, any of the following:

(1) Academic dishonesty. Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication.

(a) Cheating includes using or any attempt to use, give, or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings, or work of another person in completing an academic assignment.

(c) Fabrication includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an assignment.

(d) No student shall be allowed to withdraw from a course or from the college to avoid the consequences of academic dishonesty.

(2) Other dishonesty. Any other acts of dishonesty. Such acts include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students; or

(c) Furnishing false information or failing to furnish correct information, in response to the request or requirement of a college officer or employee.

(3) Obstruction or disruption. Obstruction or disruption of (a) any instruction, research, administration, disciplinary proceeding, or other college activity, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity, or (b) any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college. Participation in any activity which unreasonably disrupts the operations of the college or infringes on the rights of another member of the college community, or leads or incites another person to engage in such an activity.

(4) Assault. Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, stalking or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this subsection:

(a) Bullying is physical or verbal abuse, repeated over time, and involving a power imbalance between the aggressor and victim.

(b) Stalking is intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated or harassed, even if the perpetrator lacks such an intent.

(5) Cyber misconduct. Cyberstalking, cyberbullying or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's e-mail communications directly or through spyware, sending threatening e-mails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's e-mail identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(6) Property violation. Attempted or actual damage to, or theft or misuse of, real or personal property or money of:

(a) The college or state;

(b) Any student or college officer, employee, or organization;

(c) Any other member of the college community or organization; or

(d) Possession of such property or money after it has been stolen.

(7) **Failure to comply with directive.** Failure to comply with the direction of a college officer or employee who is acting in the legitimate performance of his or her duties, including failure to properly identify oneself to such a person when requested to do so.

(8) **Weapons.** Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons which can be used to inflict bodily harm or to damage real or personal property is prohibited on the college campus, at any other facilities leased or operated by the college, or at any activity under the administration or sponsorship of the college. Exceptions to this policy are permitted when the weapon is used in conjunction with an approved college instructional program, is carried by duly constituted law enforcement officer.

(9) **Hazing.** Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student.

(10) **Alcohol, drug, and tobacco violations.**

(a) **Alcohol.** The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(b) **Marijuana.** The use, possession, delivery, sale, or being visibly under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(c) **Drugs.** The use, possession, delivery, sale, or being under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.

(d) **Tobacco, electronic cigarettes and related products.** Consistent with its efforts to promote wellness, fitness, and a campus environment conducive to work, study, and activities for staff, students, and the public, Lower Columbia College maintains a smoke-free campus. The use of tobacco, electronic cigarettes, and related products in any building owned, leased or operated by the college or in any location is prohibited, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased or operated by the college. "Related products" includes, but is not limited to cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

(11) **Lewd conduct.** Conduct which is obscene, lewd, or indecent.

(12) **Disorderly conduct.** Conduct which disrupts campus operations or the educational environment, is disturbing

the peace, or assisting or encouraging another person to disturb the peace.

(13) **Discriminatory conduct.** Discriminatory conduct which harms or adversely affects any member of the college community because of her/his race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. Such finding is considered an aggravating factor in determining a sanction for such conduct.

(14) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence.

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members.

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(c) **Sexual violence.** The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent, including rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, gender- or sex-based stalking. The term further includes acts of dating or domestic violence. A person may be incapable of giving consent by reason of age, threat or intimidation, lack of opportunity to object, disability, drug or alcohol consumption, or other cause.

(15) **Harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic communications.

(16) **Retaliation.** Retaliation, intimidation, threats, or coercion against anyone who asserts a right protected by federal, state or local law, or college policies including, but not

limited to, student conduct code provisions prohibiting discrimination and harassment, or who cooperates in an investigation.

(17) **Theft or misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

- (a) Unauthorized use of such resources or opening of a file, message, or other item;
- (b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;
- (c) Unauthorized use or distribution of someone else's password or other identification;
- (d) Use of such time or resources to interfere with someone else's work;
- (e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;
- (f) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;
- (g) Use of such time or resources in violation of applicable copyright or other law;
- (h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or

(i) Failure to comply with the student computing resources policy (http://www.LowerColumbia.edu/student_services/computing_resources/policy.php).

(18) **Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.

(19) **Safety violations.** Safety violation includes any nonaccidental conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

(20) **Abuse or misuse of any procedures.** Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:

- (a) Failure to obey a subpoena;
- (b) Falsification or misrepresentation of information;
- (c) Disruption, or interference with the orderly conduct of a proceeding;
- (d) Interfering with someone else's proper participation in a proceeding;
- (e) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;
- (f) Attempting to influence the impartiality of, or harassing or intimidating, a student conduct committee member; or
- (g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(21) **Motor vehicles.** Operation of any motor vehicle on college property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

(22) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other

college rules or policies, including college traffic and parking rules.

(23) **Ethical violation.** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

NEW SECTION

WAC 132M-125-040 Trespass. The vice-president of student success or designee shall have the authority and power to:

(1) Prohibit the entry, or withdraw the license or privilege of any person or group of persons to enter onto or remain on any college premises or facility;

(2) Give notice against trespass by any manner provided by law, to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from, entering onto or remaining upon all or any portion of college premises or a college facility; or

(3) Order any person, persons, or group of persons to leave or vacate all or any portion of the college premises or facility. Such power and authority may be exercised to halt any event which is deemed to be unreasonably disruptive of order or impedes the movement of persons or vehicles or which disrupts or threatens to disrupt the ingress and/or egress of persons from facilities owned and/or operated by the college. Any individual remaining on or reentering the college premises or facility after receiving notice that his or her license or privilege to be on that property has been revoked shall be subject to disciplinary action and/or charges of criminal trespass.

NEW SECTION

WAC 132M-125-045 Disciplinary sanctions and terms and conditions. The following disciplinary sanctions may be imposed upon students found to have violated the student conduct code. Depending upon the misconduct, more than one sanction may be required. Other than college expulsion or revocation or withholding of a degree, disciplinary sanctions are not made part of the student's academic record, but are part of the student's disciplinary record. Violation of any term or condition of any disciplinary sanction constitutes a new violation and may subject the student to additional sanctions.

(1) **Disciplinary warning:** A verbal statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(2) **Written reprimand:** Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(3) **Disciplinary probation:** Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(4) **Disciplinary suspension:** Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.

(5) **Dismissal:** The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.

(6) Disciplinary terms and conditions that may be imposed in conjunction with the imposition of a disciplinary sanction include, but are not limited to, the following:

(a) **Educational sanction.** The college may require the student to complete an educational activity or experience directly related to the violation committed, at the student's expense.

(b) **Professional evaluation:** Referral for drug, alcohol, psychological or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(c) **Not in good standing:** A student may be deemed "not in good standing" with the college. If so the student shall be subject to the following restrictions:

(i) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.

(ii) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

(d) **Restitution or monetary fine.** Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, monetary fine, or other compensation.

(e) **Hold on transcript or registration.** This is a temporary measure restricting release of a student's transcript or access to registration. Upon satisfactory completion of the conditions of the sanction, the hold is released.

(f) **Revocation of admission or degree.** Admission to or a degree awarded from the college may be revoked for fraud, misrepresentation, or other violation of standards of conduct for students in obtaining the degree, or for other serious violations committed by a student prior to graduation.

(g) **Withholding degree.** The college may withhold awarding a degree otherwise earned until the completion of the process set forth in this chapter, including the completion of all sanctions imposed.

(h) **No trespass order.** A student may be restricted from college property based on his/her misconduct.

(i) **No contact order.** A prohibition of direct or indirect physical, verbal, or written contact, including electronic, with another individual or group.

HEARING PROCEDURES

NEW SECTION

WAC 132M-125-100 Initiation of disciplinary action.

(1) All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(2) The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing him or her to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting. At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting, the student conduct officer may take disciplinary action based upon the available information.

(3) Within ten days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting his or her decision, the specific student conduct code provisions found to have been violated, the discipline imposed, if any, and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal.

(4) The student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the respondent and terminate the proceedings.

(b) Impose a disciplinary sanction(s), as described in WAC 132M-125-045.

(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention

of the chair of the student conduct committee, with a copy served on the respondent.

NEW SECTION

WAC 132M-125-105 Appeal from disciplinary action. (1) The respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within twenty-one days of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent and the conduct review officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(7) The student conduct committee shall hear appeals from:

(a) The imposition of disciplinary suspensions in excess of ten instructional days;

(b) Dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer, the conduct review officer, or the president.

(8) Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:

(a) Suspensions of ten instructional days or less;

(b) Disciplinary probation;

(c) Written reprimands; and

(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(9) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final action and are not subject to appeal.

NEW SECTION

WAC 132M-125-110 Brief adjudicative proceedings—Initial hearing. (1) Brief adjudicative proceedings shall be conducted by a conduct review officer designated by the president. The conduct review officer shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:

(a) An opportunity to be informed of the college's view of the matter; and

(b) An opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon both the parties within ten days of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within twenty-one days of the initial decision, the initial decision shall be deemed the final decision.

(4) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

NEW SECTION

WAC 132M-125-115 Brief adjudicative proceedings—Review of an initial decision. (1) An initial decision is subject to review by the president or designee, provided the respondent files a written request for review with the conduct review officer within twenty-one days of the initial decision.

(2) The president or designee shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president or designee shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within twenty-one days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within twenty-one days after the request is submitted.

(5) If the president or designee upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

NEW SECTION

WAC 132M-125-120 Student conduct committee. (1) The student conduct committee shall consist of five members:

(a) Two full-time students appointed by the student government (ASLCC);

(b) Two faculty members appointed by the faculty association;

(c) One administrative staff member (other than an administrator serving as a student conduct or conduct review officer) appointed by the president at the beginning of the academic year.

(2) The administrative staff member shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee so long as one faculty member and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student conduct committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4).

NEW SECTION

WAC 132M-125-125 Appeal—Student conduct committee. (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW, and by the Model rules of procedure, chapter 10-08 WAC. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown.

(3) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request filed at least five days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of (a) the conduct officer's notification of imposition of discipline (or referral to the committee) and (b) the notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer, upon request, shall provide reasonable assistance to the respondent in obtaining rel-

evant and admissible evidence that is within the college's control.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) Each party may be accompanied at the hearing by a nonattorney assistant of his/her choice. A respondent may elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer. The committee will ordinarily be advised by an assistant attorney general. If the respondent is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

NEW SECTION

WAC 132M-125-130 Student conduct committee hearings—Presentations of evidence. (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

(a) Proceed with the hearing and issuance of its decision; or

(b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that he/she selects, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer (unless represented by an assistant attorney general) shall present the case for imposing disciplinary sanctions.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

NEW SECTION

WAC 132M-125-135 Student conduct committee—Initial decision. (1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form it wishes to receive them.

The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within twenty-one days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's initial order shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall identify and impose disciplinary sanction(s) or conditions, if any, as authorized in the student code. If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the disciplinary sanction and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanction(s) or conditions as authorized herein.

(4) The committee chair shall cause copies of the initial decision to be served on the parties and their legal counsel of record. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

NEW SECTION

WAC 132M-125-140 Appeal from student conduct committee initial decision. (1) A respondent who is aggrieved by the findings or conclusions issued by the student conduct committee may appeal the committee's initial decision to the president or designee by filing a notice of appeal with the president's office within twenty-one days of the committee's initial decision. Failure to file a timely appeal constitutes a waiver of the right and the initial decision shall be deemed final.

(2) The notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain argument why the appeal should be granted. The president's or designee's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the notice of appeal.

(3) The president or designee shall provide a written decision to all parties within forty-five days after receipt of the notice of appeal. The president's or designee's decision shall be final and shall include a notice of any rights to request reconsideration and/or judicial review.

(4) The president or designee may, at his or her discretion, suspend any disciplinary action pending review of the merits of the findings, conclusions, and disciplinary actions imposed.

(5) The president or designee shall not engage in an ex parte communication with any of the parties regarding an appeal.

NEW SECTION

WAC 132M-125-145 Summary suspension. (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety, or welfare of members of the college community; or

(c) Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two days of the oral notice.

(4) The written notification shall be entitled "Notice of summary suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.

(5)(a) The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.

(b) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(c) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(d) If the student fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(e) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall

include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

(f) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.

NEW SECTION

WAC 132M-125-150 Classroom misconduct and authority to suspend for no more than one day. (1) Faculty members have the authority to take appropriate action to maintain order and proper conduct in the classroom and to maintain the effective cooperation of students in fulfilling the objectives of the course.

(2) Bringing any person, thing, or object to a teaching and learning environment that may disrupt the environment or cause a safety or health hazard, without the express approval of the faculty member is expressly prohibited.

(3) Faculty members or college administrators have the right to suspend any student from any single class or related activity for no more than one day, if the student's misconduct creates disruption to the point that it is difficult or impossible to maintain the decorum of the class, related activity or the learning and teaching environment. The faculty member or college administrator shall report this suspension to the student conduct office or designee on the same day of the suspension. In consultation with the faculty member, the student conduct office may set conditions for the student upon return to the class or activity.

DISCIPLINE PROCEDURES FOR CASES INVOLVING ALLEGATIONS OF SEXUAL MISCONDUCT

NEW SECTION

WAC 132M-125-200 Supplemental sexual misconduct procedures. Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial disciplinary decision-making process and to appeal any disciplinary decision.

Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct by a student. In such cases, these procedures shall supplement the student disciplinary procedures in WAC 132M-125-005 through 132M-125-145. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct procedures shall prevail.

NEW SECTION

WAC 132M-125-205 Supplemental definitions. The following supplemental definitions shall apply for purposes of student conduct code proceedings involving allegations of sexual misconduct by a student:

(1) A "complainant" is an alleged victim of sexual misconduct, as defined in subsection (2) of this section.

(2) "Sexual misconduct" is prohibited sexual- or gender-based conduct by a student including, but not limited to:

(a) Sexual activity for which clear and voluntary consent has not been given in advance;

(b) Sexual activity with someone who is incapable of giving valid consent because, for example, she or he is under-age, sleeping or otherwise incapacitated due to alcohol or drugs;

(c) Sexual harassment;

(d) Sexual violence which includes, but is not limited to, sexual assault, domestic violence, intimate violence, and sexual- or gender-based stalking;

(e) Nonphysical conduct such as sexual- or gender-based digital media stalking, sexual- or gender-based online harassment, sexual- or gender-based cyberbullying, nonconsensual recording of a sexual activity, and nonconsensual distribution of a recording of a sexual activity.

NEW SECTION

WAC 132M-125-210 Supplemental complaint process. The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student.

(1) The college's Title IX compliance officer or designee shall investigate complaints or other reports of alleged sexual misconduct by a student. Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(2) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(3) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety and welfare of the complainant or other members of the college community or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

(4) The student conduct officer, prior to initiating disciplinary action, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions, if any, that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.

(5) The student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant and respondent of their appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure that prompt notice of the protective disciplinary sanctions

and/or conditions imposed upon the respondent for the complainant's protection.

NEW SECTION

WAC 132M-125-215 Supplemental appeal rights. (1)

The following actions by the student conduct officer may be appealed by the complainant:

(a) The dismissal of a sexual misconduct complaint; or
 (b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.

(2) A complainant may appeal a disciplinary decision by filing a notice of appeal with the conduct review officer within twenty-one days of the notice of the discipline decision provided for in WAC 132M-125-210(5). The notice of appeal may include a written statement setting forth the grounds of appeal. Failure to file a timely notice of appeal constitutes a waiver of this right and the disciplinary decision shall be deemed final.

(3) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.

(4) Except as otherwise specified in this supplemental procedure, a complainant who timely appeals a disciplinary decision or who intervenes as a party to respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

(5) An appeal by a complainant from the following disciplinary actions involving allegations of sexual misconduct against a student shall be handled as a brief adjudicative proceeding:

(a) Exoneration and dismissal of the proceedings;
 (b) A disciplinary warning;
 (c) A written reprimand;
 (d) Disciplinary probation;
 (e) Suspensions of ten days or less; and/or
 (f) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(6) An appeal by a complainant from disciplinary action imposing a suspension in excess of ten days or an expulsion shall be reviewed by the student conduct committee.

(7) In proceedings before the student conduct committee, respondent and complainant shall have the right to be accompanied by a nonattorney assistant of their choosing during the appeal process. Complainant may choose to be represented at the hearing by an attorney at his or her own expense, but will be deemed to have waived that right unless, at least four days before the hearing, he or she files a written notice of the attorney's identity and participation with the committee chair, and with copies to the respondent and the student conduct officer.

(8) In proceedings before the student conduct committee, complainant and respondent shall not directly question or cross examine one another. All questions shall be directed to the committee chair, who will act as an intermediary and pose questions on the parties' behalf.

(9) Student conduct hearings involving sexual misconduct allegations shall be closed to the public, unless respondent and complainant both waive this requirement in writing

and request that the hearing be open to the public. Complainant, respondent and their respective nonattorney assistants and/or attorneys may attend portions of the hearing where argument, testimony and/or evidence are presented to the student conduct committee.

(10) The chair of the student conduct committee, on the same date as the initial decision is served on the respondent, will serve a written notice upon complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of his or her appeal rights.

(11) Complainant may appeal the student conduct committee's initial decision to the president or designee subject to the same procedures and deadlines applicable to other parties.

(12) The president or designee, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.

NEW SECTION

WAC 132M-125-220 Brief adjudicative proceedings—College record. The college record for brief adjudicative proceedings shall consist of any documents regarding the matter that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer for any review. These records shall be maintained as the official record of the proceedings.

NEW SECTION

WAC 132M-125-225 Recordkeeping. (1) The record in a brief adjudicative proceeding shall consist of all documents as required by law and as specified in RCW 34.05.476.

(2) The office of the vice-president of student success shall maintain records of student grievance and disciplinary proceedings for at least six years.

(3) The disciplinary record is confidential.

(4) Students may request a copy of their own disciplinary record at their own reasonable expense by making a written request to the vice-president of student success. Personally identifiable student information is redacted to protect another student's privacy.

(5) Students may authorize release of their own disciplinary record to a third party in compliance with FERPA, 20 U.S.C. Sec. 1232g, by making a written request to the vice-president of student success.

(6) The college may inform the complainant of the outcome of any disciplinary proceeding involving a crime of violence or nonforcible sex offense, as permitted by FERPA, 20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99.

(7) The college may not communicate a student's disciplinary record to any person or agency outside the college without the prior written consent of the student, except as

required or permitted by law. Exceptions include, but are not limited to:

(a) The student's parents or legal guardians may review these records if the student is a minor or a dependent, if the student is a minor and disciplinary action involves the use or possession of alcohol or controlled substance, or in connection with a health or safety emergency regardless if the student is a dependent or a minor, as permitted by FERPA, 20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99.

(b) To another educational institution, upon request, where the student seeks to, intends to, or has enrolled.

(c) Information concerning registered sex offenders.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132M-121-010 Statement of policy and purpose.
- WAC 132M-121-020 Definitions.
- WAC 132M-121-030 Jurisdiction.
- WAC 132M-121-040 Right to demand identification.
- WAC 132M-121-041 Freedom of expression.
- WAC 132M-121-042 Right to assembly.
- WAC 132M-121-043 Right to outside speakers.
- WAC 132M-121-044 Distribution of materials.
- WAC 132M-121-045 Denial of access to Lower Columbia College.
- WAC 132M-121-046 Trespass.
- WAC 132M-121-050 Smoking.
- WAC 132M-121-051 Liquor.
- WAC 132M-121-052 Drugs/substance abuse.
- WAC 132M-121-053 Hazing.
- WAC 132M-121-054 Failure to comply.
- WAC 132M-121-055 Disorderly or disruptive conduct.
- WAC 132M-121-056 Theft—Stolen property—Robbery.
- WAC 132M-121-057 Damaging property.
- WAC 132M-121-058 Interference—Intimidation—Physical abuse—Verbal abuse—Threats—Harassment—Stalking.
- WAC 132M-121-059 Obscene, lewd or indecent conduct.
- WAC 132M-121-060 Racial harassment.
- WAC 132M-121-061 Sexual harassment.
- WAC 132M-121-062 Forgery or alteration of records.
- WAC 132M-121-063 Computer trespass.
- WAC 132M-121-064 Firearms/explosives.
- WAC 132M-121-065 Other punishable acts.
- WAC 132M-121-066 False information.
- WAC 132M-121-067 Academic dishonesty.
- WAC 132M-121-068 Malicious harassment.

- WAC 132M-121-100 Initiation of discipline.
- WAC 132M-121-105 Sanctions.
- WAC 132M-121-110 Student conduct committee.
- WAC 132M-121-115 Appeals.
- WAC 132M-121-120 Groups and organizations.
- WAC 132M-121-200 Summary suspension.
- WAC 132M-121-300 Adjudicative proceedings before the student conduct committee.
- WAC 132M-121-310 Recordkeeping.
- WAC 132M-121-320 Evidence admissible in hearings.
- WAC 132M-121-330 Initial order—Petition for administrative review—Final order.
- WAC 132M-121-340 Suspension for failure to appear.
- WAC 132M-121-350 Final decision.
- WAC 132M-121-500 Severability.

WSR 15-12-058

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed May 28, 2015, 1:15 p.m., effective June 28, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To clarify when electioneering communication records of a commercial advertiser must first be made available for inspection and what records may be inspected under RCW 42.17A.345. This amendment harmonizes WAC 390-18-050 with current statutory requirements enacted by the Electioneering Communications Act (chapter 445, Laws of 2005).

Citation of Existing Rules Affected by this Order: Amending WAC 390-18-050.

Statutory Authority for Adoption: RCW 42.17A.110(8).

Adopted under notice filed as WSR 15-09-079 on April 16, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 28, 2015.

Lori Anderson
Communications and
Training Officer

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-18-050 Commercial advertisers—Public inspection of records. (1) Pursuant to RCW 42.17A.345, any person, without reference to or permission from the public disclosure commission, is entitled to inspect ~~((the advertising records of))~~ a commercial ~~((advertiser))~~ advertiser's political advertising or electioneering communications documents and books of account.

(2) No commercial advertiser shall be required to make available for public inspection information regarding advertising or electioneering communications prior to the time when the advertisement or communication has initially received public distribution or broadcast.

(3) The documents and books of account that must be maintained open for public inspection pursuant to RCW 42.17A.345(1) are:

(a) The name of the candidate or ballot measure supported or opposed or the name of the candidate otherwise identified;

(b) The name and address of the person who sponsored the advertising or electioneering communication;

(c) The total cost of the advertising or electioneering communication, how much of that amount has been paid, who made the payment, when it was paid, and what method of payment was used; and

(d) Date(s) the commercial advertiser rendered service.

(4) In addition to subsection (3) of this section and pursuant to RCW 42.17A.345 (1)(b), the documents and books of account open for public inspection must include a description of the major work components or tasks, as specified in (a) through (f) of this subsection, that were required to provide the advertising or communications services.

(a) For printers, reproducers and other persons who provide commercial duplicating services: Quantity of items, item description, design, layout, typesetting, photography, printing, silk screening, binding.

(b) For mailing services: Quantity of items mailed, binding, stuffing, labeling, list or directory services, postage or delivery.

(c) For broadcast media: Time and number of spot advertisements. If the broadcaster provides additional services such as copy writing, talent, production, and tape reproduction, some type of record or notation evidencing the additional service must be available.

(d) For billboard or sign companies: Number and location of signs, design, printing and art work, erection/removal costs.

(e) For specialty or novelty commercial advertisers: Quantity of items provided, silk screening, design, printing and art work.

(f) For newspapers and other print media: Amount of advertising space and dates of publication. If the advertiser provides additional services such as design or layout, some type of record evidencing such additional services must be available.

WSR 15-12-063

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed May 28, 2015, 6:20 p.m., effective June 28, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Repeal of chapter 180-44 WAC, Teachers' responsibilities, as not pertinent to the state board of education statutory duties as constituted and as superseded by rules adopted by other education agencies with pertinent responsibilities.

Citation of Existing Rules Affected by this Order: Repealing chapter 180-44 WAC.

Statutory Authority for Adoption: The statutory authority for adoption of these rules at their original filing on April 29, 1965, no longer exists.

Adopted under notice filed as WSR 15-04-125 on February 3, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 6.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 6.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 14, 2015.

Ben Rarick
Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 180-44-005	Regulatory provisions relating to RCW 28A.305.130(6) and 28A.600.-010.
WAC 180-44-007	Regulatory provisions relating to RCW 28A.04.120(6) and 28A.58.101—Application.
WAC 180-44-010	Regulatory provisions relating to RCW 28A.04.120(6) and 28A.58.101—Responsibilities related to instruction.
WAC 180-44-020	Regulatory provisions relating to RCW 28A.04.120(6) and 28A.58.101—Responsibilities related to discipline of pupils.

- WAC 180-44-040 Regulatory provisions relating to RCW 28A.04.120(6) and 28A.58.101—Classroom—Physical environment.
- WAC 180-44-060 Regulatory provisions relating to RCW 28A.04.120(6) and 28A.58.101—Drugs and alcohol—Use of as cause for dismissal.

WSR 15-12-066
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 29, 2015, 9:06 a.m., effective July 1, 2015]

Effective Date of Rule: July 1, 2015.

Purpose: The rules have been updated to conform with a change in statute, RCW 7.68.085 Cap on medical benefits.

Citation of Existing Rules Affected by this Order: Amending WAC 296-30-010, 296-30-087, 296-30-900, 296-31-060, and 296-33-010.

Statutory Authority for Adoption: Chapter 7.68 RCW.

Adopted under notice filed as WSR 15-04-118 on February 3, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: May 29, 2015.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 11-22-054, filed 10/31/11, effective 12/1/11)

WAC 296-30-010 Definitions. The following definitions are used to administer the crime victims compensation program:

Acceptance, accepted condition: A determination by the department that the diagnosis of the claimant's medical or mental health condition is the result of the criminal act. The condition being accepted must be specified by one or more diagnostic codes from the current edition of the International Classification of Diseases, Clinically Modified (ICD-CM), or the Diagnostic and Statistical Manual of Mental Disorders (DSM).

Authorization: Notification by a qualified representative of the department that specific treatment, services or equipment provided for the accepted condition is allowable under the claim. Providers must maintain records naming the claim manager who authorizes treatment, services or equipment.

Bodily injury: Any harmful or offensive touching, including severe emotional distress where no touching takes place when:

(1) The victim **is not** the object of the criminal act and:

(a) The distress is intentionally or recklessly inflicted by extreme or outrageous conduct;

(b) Caused the victim to have a reasonable apprehension of imminent bodily harm; and

(c) The victim is in the immediate vicinity at the time of the criminal act.

(2) The victim **is** the object of the criminal act and:

(a) The distress is intentionally or recklessly inflicted by extreme or outrageous conduct; and

(b) Caused the victim to have a reasonable apprehension of imminent bodily harm.

Claimant: A victim who submits an application for benefits, or on whose behalf an application is submitted.

Consultation: The services rendered by a health care provider whose opinion or advice is requested by the treating provider, or by the department, in the evaluation and/or treatment of a claimant. Case management or case staffing does not constitute a consultation.

Criminal act: An act defined in RCW 7.68.020, the occurrence of which can be verified by the department or which is reasonably credible. Physically impossible acts, highly improbable acts for which verification is not available, or unverified memories of acts occurring prior to the age of two will not be accepted as reasonably credible. In evaluating evidence to determine verification of claimed criminal acts, the department will give greater weight to the quality, than to the quantity, of evidence. Evidence that can be considered for verification of claimed criminal acts includes, but is not limited to, one or more of the following:

(1) Police or other investigation reports.

(2) Child protective services or other government agency reports.

(3) Diaries or journals kept by victims and others.

(4) Third party reports from school counselors, therapists and others.

(5) Current medical examinations.

(6) Medical or psychological forensic evaluations. In the absence of other adequate forensic evaluation reports, independent assessments per WAC 296-31-069 may be conducted when indicated.

(7) Legal and historical reports.

(8) Current and past medical and mental health records.

(9) Reports of interviews with the victim's family members, friends, acquaintances and others who may have knowledge of pertinent facts. When such interviews are necessary to determine eligibility, the victim will be given the choice of whether to allow the interviews to be conducted. The victim will also be given the understanding that eligibility may be denied if the interviews are not conducted. The department will act according to the victim's choice.

Crisis intervention: Therapy to alleviate the claimant's most pressing problems. The vital mental and safety functions of the claimant are stabilized by providing support, structure and, if necessary, restraint.

Evidence-based and curative treatment: Treatment practices, interventions and services that are supported by empirically based research and shown to produce consistent and effective outcomes.

Family therapy: Therapy involving one or more members of the claimant's family, excluding the perpetrator, which centers on issues resulting from the claimant's sexual assault pursuant to WAC 296-30-080.

Group therapy: Therapy involving the claimant, and one or more clients who are not related to the claimant, which includes issues related to the claimant's condition and pertinent to other group members.

Immediate family members: Any claimant's parents, spouse, child(ren), siblings, grandparents, and those members of the same household who have assumed the rights and duties commonly associated with a family unit.

Individual therapy: Therapy provided on a one-to-one basis between a provider and client.

Lost wage certification: Documentation from a treating provider based on objective medical evidence stating the claimant is not able to work based on the effects of the crime injury.

Maximum benefit: The maximum amount payable per claim. Medical benefits cannot exceed one hundred fifty thousand dollars per claim pursuant to RCW 7.68.085. Non-medical benefits cannot exceed forty thousand dollars pursuant to RCW 7.68.070(1).

Mental health provider: Any person, firm, corporation, partnership, association, agency, institution, or other entity providing any kind of mental health services related to the treatment of a claimant. This includes, but is not limited to, hospitals, psychiatrists, psychologists, advanced registered nurse practitioners with a specialty in psychiatric and mental health nursing, registered and/or licensed master level counselors, and other qualified service providers licensed, registered and/or certified with the department of health and registered with the crime victims compensation program. (Refer to WAC 296-31-030 for specific details.)

Payer of last resort: The crime victims compensation program pays after all other public or private insurance programs, up to our fee schedule.

Proper and necessary: Proper and necessary services for the diagnosis or rehabilitative treatment of an accepted condition:

- (1) Reflective of accepted standards of good practice within the scope of the provider's license, certification, or registration;
- (2) Not delivered primarily for the convenience of the claimant, the claimant's attending provider, or another provider;
- (3) Curative or rehabilitative care that produces long lasting changes which reduces the effects of the accepted condition;
- (4) Provided at the least cost and in the least intensive setting of care consistent with the other provisions of this definition; and

(5) Concluded once a claimant has reached a state of maximum improvement. Maximum improvement occurs when no fundamental or marked change in an accepted condition can be expected with or without treatment. A claimant's condition may have reached maximum improvement though it might be expected to improve or deteriorate with the passage of time. Once a claimant's condition has reached maximum improvement, treatment that results only in temporary changes is not proper and necessary. Maximum improvement is equivalent to fixed and stable.

Reasonable cooperation: The victim is able to talk to the police and give information to help in the investigation and prosecution of the alleged offender. There may be circumstances in which the victim is not able to fully cooperate. In these instances, consideration is given to the needs of the victim. The department may consider the following issues. The list is not inclusive:

- (1) There is fear of retribution from the offender;
- (2) There is a mental or physical condition which inhibits cooperation;
- (3) The victim is dependent upon the offender for support;
- (4) The victim is a minor.

Termination of treatment: Treatment is concluded when it is no longer curative because the accepted condition for which the claim was allowed has become stable. The provider shall submit a report indicating the date the condition became stable to the department.

The result of: The test used to define "the result of" used in RCW 7.68.060 (2)(a) is two-pronged. First, it must be determined that cause in fact exists, and second, it must then be determined that proximate cause exists.

- (1) Cause in fact exists if "but for" the acts of the victim the crime that produced the injury would not have occurred.
- (2) Proximate cause exists if, once cause in fact is found, it is determined that the acts of the victim:
 - (a) Resulted in a foreseeable injury to the victim;
 - (b) Played a substantial role in the injury; and
 - (c) Were the direct cause of the injury.

Treating provider: A person licensed to practice one or more of the following professions: Medicine and surgery, osteopathic medicine and surgery, chiropractic naturopathic physician, podiatry, dentistry, optometry, advanced registered nurse practitioner (ARNP), mental health therapists, and certified medical physician assistants or osteopathic physician assistants. A treating provider actively treats an injured or ill claimant.

Unjustly enriched: It would not be fair or equitable justice to allow a person to obtain, or have control of, or access to benefits or compensation paid to a victim of crime.

AMENDATORY SECTION (Amending WSR 11-22-054, filed 10/31/11, effective 12/1/11)

WAC 296-30-087 Can a victim be billed for expenses related to their claim? (1) If claim costs are under ~~((fifty thousand dollars))~~ the maximum benefit, the claimant should not pay any expenses relating to an allowed claim. Providers must bill the claimant's public or private insurance first, and then bill the department.

EXCEPTION: A provider may require the claimant to pay for treatment if the claimant's eligibility is pending. If benefits are authorized, and payable by the department, the provider must refund the claimant in full.

(2) If claim costs exceed ~~((fifty thousand dollars))~~ the maximum benefit, the claimant is responsible for expenses.

AMENDATORY SECTION (Amending WSR 10-19-111, filed 9/21/10, effective 10/22/10)

WAC 296-30-900 What law controls a claim if a statute is amended after the date of the criminal act? (1) The criminal act occurs when the perpetrator commits the criminal conduct. The statute in effect ((when the criminal act occurred)) at the time the criminal act occurred, as defined in RCW 7.68.020(5), is the controlling law((-except as provided in chapter 122, Laws of 2010 (E2SSB 6504). The act occurs when the perpetrator commits the criminal conduct.

For those crime victims who apply for benefits after April 1, 2010, the law in effect at the time the application is received by the department is the controlling law)). The limited total claim benefit of fifty thousand dollars effective April 1, 2010, which applied retroactively to claims filed on or after July 1, 1981, expired effective July 1, 2015.

(2) The cap of forty thousand dollars on nonmedical benefits pursuant to RCW 7.68.070(1) remains in effect. Medical benefits for claims filed on or after July 1, 1981, have been extended to one hundred fifty thousand dollars per claim pursuant to RCW 7.68.085.

AMENDATORY SECTION (Amending WSR 12-23-085, filed 11/20/12, effective 1/1/13)

WAC 296-31-060 What reports are required from mental health providers? The crime victims compensation program requires the following reports from mental health providers:

(1) **Initial response and assessment: Form I:** This report is required if you are seeing the client for **six sessions or less**, and must contain:

(a) The client's initial description of the criminal act for which they have filed a crime victims compensation claim;

(b) The client's presenting symptoms/issues by your observations and the client's report;

(c) If the claimant is unable to work as a result of the crime injury, provide an estimate of when the claimant will return to work and why they are unable to work; and

(d) What type of intervention(s) you provided.

EXCEPTION: If you will be providing more than six sessions it is not necessary to complete Form I, instead complete Form II.

(2) **Initial response and assessment: Form II:** This report is required if **more than six sessions** are anticipated. Form II must be submitted no later than the sixth session, and must contain:

(a) The client's initial description of the criminal act for which they have filed a crime victims compensation claim;

(b) A summary of the essential features of the client's symptoms related to the criminal act, beliefs/attribution, vulnerabilities, defenses and/or resources that lead to your clinical

impression (refer to current DSM and crime victims compensation program guidelines);

(c) Any preexisting or coexisting emotional/behavioral or health conditions relevant to the crime impact if present, and how they may have been exacerbated by the crime victimization;

(d) Specific diagnoses with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year;

(e) Treatment plan based on diagnoses and related symptoms, to include:

(i) Specific treatment goals you and the client have set;

(ii) Treatment strategies to achieve the goals;

(iii) How you will measure progress toward the goals; and

(iv) Any auxiliary care that will be incorporated.

(f) A description of your assessment of the client's treatment prognosis, as well as any extenuating circumstances and/or barriers that might affect treatment progress; and

(g) If the claimant is unable to work as a result of the crime injury, provide an estimate of when the claimant will return to work and why they are unable to work.

(3) **Progress note: Form III:** This report must be completed **after session fifteen has been conducted**, and must contain:

(a) Whether there has been substantial progress towards recovery for the crime related condition(s);

(b) If you expect treatment will be completed within thirty visits (for adults) or forty visits (for children); and

(c) What complicating or confounding issues are hindering recovery.

(4) **Treatment report: Form IV:** This report must be completed for authorization for **treatment beyond thirty sessions for adults or forty sessions for children, and again for authorization if treatment will go beyond fifty sessions for adults or sixty sessions for children. Form IV** must contain:

(a) The diagnoses at treatment onset with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year;

(b) The current diagnoses, if different now, with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year; and

(c) Proposed plan for treatment and number of sessions requested, and an explanation of:

(i) Substantial progress toward treatment goals;

(ii) Partial progress toward treatment goals; or

(iii) Little or no progress toward treatment goals.

(5) **Termination report: Form V:** If you **discontinue treatment of a client** for any reason, a termination report should be completed within sixty days of the client's last visit, and must contain:

(a) Date of last session;

(b) Diagnosis at the time client stopped treatment;

(c) Reason for termination (e.g., goals achieved, client terminated treatment, client relocated, referred to other services, etc.); and

(d) At this point in time do you believe there is any permanent loss in functioning as a result of the crime injury? If

yes, describe symptoms based on diagnostic criteria for a DSM diagnosis.

(6) **Reopening application: This application is required to reopen a claim** that has been closed more than ninety days, to demonstrate a worsening of the client's condition and a need for treatment. ~~((Benefits are limited to fifty thousand dollars per claim.))~~ If the claimant has met or exceeded the maximum benefit, we will be unable to pay for reopening exams or diagnostic tests. If the benefits paid on this claim are less than the ~~((fifty thousand dollar))~~ maximum benefit, we will reimburse you for filing the application, for an office visit, and diagnostic studies needed to complete the application up to the ~~((fifty thousand dollar))~~ maximum benefit. No other benefits will be paid until a decision is made on the reopening. If the claim is reopened, we will pay benefits for a maximum of sixty days prior to the date we received the reopening application.

AMENDATORY SECTION (Amending WSR 12-23-085, filed 11/20/12, effective 1/1/13)

WAC 296-33-010 Attendant services. (1) What are attendant services?

Attendant services are proper and necessary personal care services (custodial care) provided to maintain the claimant in their residence.

(2) Who may receive attendant services?

Claimants who are temporarily or permanently totally disabled and rendered physically unable to care for themselves due to the crime may receive attendant services.

(3) Is prior authorization required for attendant services?

Yes. To be covered by the crime victims compensation program, attendant services must be requested by the attending physician and authorized by the department before services begin.

(4) Am I required to use other insurance coverage before the crime victims compensation program will cover attendant services?

Yes, all other insurances both private and public must be used first.

(5) When will the crime victims program stop paying for attendant care services?

The program will stop payment of attendant care services if the service is no longer medically necessary, or the maximum benefit ~~((of fifty thousand dollars))~~ is reached.

(6) What attendant services does the crime victims program cover?

The program covers proper and necessary attendant services that are provided consistent with the claimant's needs, abilities and safety. Only attendant services that are necessary due to the physical restrictions caused by the crime are covered.

The following are examples of attendant services that may be covered:

- Bathing and personal hygiene;
- Dressing;
- Administration of medications;
- Specialized skin care, including changing or caring for dressings or ostomies;

- Tube feeding;
- Feeding assistance (not meal preparation);
- Mobility assistance, including walking, toileting and other transfers;
- Turning and positioning;
- Bowel and incontinent care; and
- Assistance with basic range of motion exercises.

(7) What attendant services are not covered?

Services the department considers everyday environmental needs, unrelated to the medical needs of the claimant, are not covered. The following are examples of some chore services that are not covered:

- Housecleaning;
- Laundry;
- Shopping;
- Meal planning and preparation;
- Transportation of the claimant;
- Errands for the claimant;
- Recreational activities;
- Yard work;
- Child care.

(8) Will the crime victims compensation program review the attendant services being provided?

Yes. Periodic evaluations by the crime victims compensation program or its designee will be performed. Evaluations may include, but not be limited to, a medical records review and an on-site review of appropriate attendant services consistent with the claimant's needs, ability, and safety.

(9) Who is eligible to become a provider of attendant services?

Attendant services must be provided through an agency licensed, certified or registered to provide home care or home health services.

(10) How can a provider obtain a provider account number from the department?

In order to receive a provider account number from the department, a provider must:

- Complete a provider account application;
- Sign a provider agreement;
- Provide a copy of any practice or other license held;
- Complete, sign and return Form W-9; and
- Meet the department's provider eligibility requirements.

Note: A provider account number is required to receive payment from the department but is not a guarantee of payment for services.

(11) How many hours will be authorized for attendant services?

The crime victims compensation program will determine the maximum hours of authorized care based on an independent nursing assessment conducted in the claimant's residence. More than one provider may be authorized, based on the claimant's needs and the availability of providers. Attendant service providers are limited to a maximum of seventy hours per week per provider.

(12) What are the provider account status definitions?

- Active - Account information is current and provider is eligible to receive payment.

- Inactive - Account is not eligible to receive payment based on action by the department or at provider request. These accounts can be reactivated.

- Terminated - Account is not eligible to receive payment based on action by the department or at provider request. These accounts cannot be reactivated.

(13) When may the department inactivate a provider account?

The department may inactivate a provider account when:

- There has been no billing activity on the account for eighteen months; or
- The provider requests inactivation; or
- Provider communications are returned due to address changes; or
- The department changes the provider application or application procedures; or
- Provider does not comply with department request to update information.

(14) When may the department terminate a provider account?

The department may terminate a provider account when:

- The provider is found ineligible to treat per department rules; or
- The provider requests termination; or
- The provider dies or is no longer in active business status.

(15) How can a provider reactivate a provider account?

To reactivate a provider account, the provider may call or write the department. The department may require the provider to update the provider application and/or agreement or complete other needed forms prior to reactivation. Account reactivation is subject to department review. If a provider account has been terminated, a new provider application will be required.

WSR 15-12-068

PERMANENT RULES

EDMONDS COMMUNITY COLLEGE

[Filed May 29, 2015, 10:23 a.m., effective June 29, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The existing student discipline WAC had not been updated since 1994. The new Student code of conduct—Hearing procedures, brings the college into compliance with new state and federal laws, including compliance with Title IX and the Violence Against Women Reauthorization Act (VAWA). It includes language dealing with marijuana use, sale and possession on campus, or on campus owned or controlled properties. The new WAC accomplishes the following: (1) Establishes a twenty-first Century-based student code of conduct; (2) streamlines policies and procedures; (3) provides clearer language in addressing inappropriate behaviors and behavioral expectations; and (4) strengthens due process and outcomes for students.

Citation of Existing Rules Affected by this Order: Repealing chapter 132Y-125 WAC, Student discipline; and amending chapter 132Y-125 WAC, Student code of conduct—Hearing procedures.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Other Authority: Federal statutes - Title IX, 20 U.S.C. § 1681 et seq.; VAWA, 42 U.S.C. § 13925; Edmonds CC Board of Trustees Resolution No. 15-5-2.

Adopted under notice filed as WSR 15-05-079 on February 18, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 17, Amended 0, Repealed 1; Federal Rules or Standards: New 17, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 17, Amended 0, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 17, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 17, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 19, 2015.

Suzanne Moreau

Interim Executive Director
of Human Resources
Rules Coordinator

Chapter 132Y-125 WAC

**STUDENT ((DISCIPLINE)) CODE OF CONDUCT—
HEARING PROCEDURES**

NEW SECTION

WAC 132Y-125-001 Student code of conduct. (1)

Authority. The Edmonds Community College board of trustees, acting pursuant to RCW 28B.50.140(14), delegates to the president of the college the authority to administer disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice-president for student services or designee. The student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

(2) Statement of student rights. As members of the Edmonds Community College academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

The following rights are guaranteed to each student within the limitations of statutory law and college policies necessary to achieve the educational goals of the college, and

also acting pursuant to Edmonds Community College Academic Freedom Policy (B.1.4):

(a) **Academic freedom.**

(i) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(ii) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(iii) Students shall be protected from academic evaluation which is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(iv) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including sexual harassment.

(b) **Due process.**

(i) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(ii) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(iii) A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in the student conduct hearing procedures.

(3) **Student misconduct.** The college may impose disciplinary sanctions against a student who commits, attempts to commit, aids, abets, incites, encourages or assists another person to commit, an act(s) of misconduct which includes, but is not limited to, any of the following:

(a) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to:

(i) Cheating including, but not limited to, intentional use or attempted use of unauthorized material, information, or study aids, misrepresentation of invention or any information such as falsifying research, inventing or exaggerating data, or listing incorrect or fictitious references.

(ii) Plagiarism including, but not limited to, presenting or submitting another person's, entities', and/or sources' ideas, words, or other works in an instructional course without assigning proper credit.

(iii) Unauthorized collaboration including, but not limited to, intentionally sharing or working together in an academic exercise when such actions are not approved by the course instructor.

(iv) Academic dishonesty including, but not limited to, presenting or submitting in an instructional course either information that is known to be false (while concealing that falsity) or work that is substantially the same as that previously submitted in another course (without the current instructor's approval).

(b) **Other dishonesty.** Any other acts of dishonesty. Such acts include, but are not limited to:

(i) Forgery, alteration, submission of falsified documents or misuse of any college document, record, or instrument of identification;

(ii) Tampering with an election conducted by or for college students; or

(iii) Knowingly furnishing false information, or failing to furnish accurate and honest information, in response to the request or requirement of a college officer or employee.

(c) **Obstruction or disruption of:**

(i) Any instruction, research, administration, disciplinary proceeding, or other college activity, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or

(ii) Any operation of the college, including the infringement on the rights of another member(s) of the college community; or

(iii) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(d) **Assault, intimidation, harassment.** Assault, battery, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, stalking, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this subsection:

(i) Bullying is physical or verbal abuse, repeated over time, and involving a power imbalance between the aggressor and victim.

(ii) Stalking is intentional and repeated harassment or repeated following of another person, which places that person in reasonable fear that the stalker intends to injure the person, another person, or the property of the person or another person, and the stalker either intends to frighten, intimidate, or harass the person, or knows or reasonably should know that the person is frightened, intimidated or harassed, even if the stalker lacks such an intent.

(A) The person being harassed or followed is placed in reasonable fear that the stalker intends to injure the person, another person, or property of the person or of another person.

(B) Reasonable fear is a fear that a reasonable person in the same situation would experience under most circumstances.

(e) **Cyber misconduct.** Cyberstalking, cyberbullying or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, text and image messaging, electronic bulletin boards, and social media sites to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's e-mail communications directly or through spyware, sending threatening e-mails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's e-mail and/or social media identity, nonconsensual recording of sexual activity, and/or nonconsensual distribution of a recording of sexual activity.

(f) **Property violation.** Attempted or actual damage to, or theft or misuse of, real or personal property, or money of:

(i) The college or state;

(ii) Any student, college official, employee, or college affiliated or sponsored organization; or

(iii) Any other member of the college community, or organization; or

(iv) Possession of such property or money after it has been stolen.

(g) **Failure to comply with directive.** Failure to comply with the direction of a college official or employee who is acting in the legitimate performance of their duties, including refusal to properly identify oneself to such a person when requested to do so.

(h) **Weapons.** Possession of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm, unless previously authorized in writing by the president or designee.

(i) **Hazing.** Hazing includes, but is not limited to, any initiation into or affiliation with a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student.

(j) **Tobacco violation.** Violation of the college's Tobacco Use - Smoking on Campus Policy (C 6.3.520).

(k) **Alcohol.** The use, possession, delivery, sale, or being observably under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(l) **Marijuana.** The use, possession, delivery, sale, or being observably under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(m) **Drugs.** The use, possession, delivery, sale, or being observably under the influence of any legend drug, narcotic drug, or controlled substance as defined in chapters 69.41 and 69.50 RCW except in accordance with a lawful prescription for that student by a licensed health care professional.

(n) **Lewd conduct.** Conduct which is lewd, or obscene.

(o) **Discrimination.** Conduct which harms or adversely affects any member of the college community because of their race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy, marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity and expression; veteran's status; any other legally protected classification; or any violation of the college's nondiscrimination policy.

(p) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence.

(i) **Sexual harassment.** Conduct includes, but is not limited to, engaging in unwelcome sexual advances, requests for sexual favors, or other sexual conduct, including verbal, nonverbal, electronic or social media communication, or physical touching of a sexual nature that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the college's educational programs or that creates an intimidating, hostile, or offensive environment for other campus commu-

nity members, or violation of the college's sexual harassment policy.

(ii) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(iii) **Sexual violence.** "Sexual violence" is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(A) Nonconsensual sexual intercourse is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(B) Nonconsensual sexual contact is any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(C) Domestic violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

(D) Dating violence means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

(E) Stalking means intentional and repeated harassment or following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such intent.

(F) Consent: Knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact. A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(q) **Harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status

and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy, marital status; age; religion; creed; genetic information; sexual orientation; gender identity and expression; veteran's status; or any other legally protected classification. See "sexual harassment" as defined in (p)(i) of this subsection. Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media, and electronic communications.

(r) **Retaliation.** Retaliation against any individual for reporting, providing information, exercising one's own rights or responsibilities, or otherwise being involved in the process of responding to, investigating, or addressing allegations or violations of federal, state or local law, or college policies including, but not limited to, student conduct code provisions prohibiting discrimination and harassment.

(s) **Misuse of electronic resources.** Theft of or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

(i) Unauthorized use of such resources or opening of a file, message, or other item;

(ii) Unauthorized duplication, transfer, download, upload, or distribution of a computer program, file, message, or other item;

(iii) Unauthorized use or distribution of someone else's password or other identification;

(iv) Use of such time or resources to interfere with someone else's work;

(v) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(vi) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;

(vii) Use of such time or resources in violation of applicable copyright or other law;

(viii) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or

(ix) Failure to comply with the college's regulation on appropriate use of college information technology resources or the electronic use policies as established by the college.

(t) **Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.

(u) **Safety violation.** Safety violation includes any non-accidental conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

(v) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college traffic and parking rules.

(w) **Abuse or misuse of hearing procedures.** Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:

(i) Falsification or misrepresentation of information;

(ii) Disruption, or interference with the orderly conduct of a proceeding;

(iii) Interfering with someone else's proper participation in a proceeding;

(iv) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness, including retaliation;

(v) Attempting to influence the impartiality of, or harassing or intimidating a student conduct committee member; or

(vi) Failure to comply with any disciplinary sanction(s) imposed under EdCC's student conduct code.

(x) **Ethical violation.** The breach of any generally recognized and/or published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or program.

In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal investigation or prosecution.

(4) **Sanctions.** Disciplinary actions include, but are not limited to, the following sanctions that may be imposed upon students according to the student code of conduct hearing procedures.

(a) **Warning.** A verbal statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(b) **Reprimand.** Notice in writing that the student has violated one or more terms of the college's student conduct code and that continuation of the same or similar behavior may result in more severe disciplinary action.

(c) **Probation.** Formal action placing specific conditions and restrictions upon the student's continued attendance and/or enrollment, and/or participation in college programs or activities, depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance and/or enrollment at the college.

(d) **Suspension.** Dismissal from the college and from the student status for a stated period of time. There may be no refund of tuition or fees for the quarter in which the action is taken.

(e) **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities with-

out any possibility of return. There will be no refund of tuition or fees for the quarter in which the sanction is taken.

(5) **Terms and conditions.** Disciplinary terms and conditions that may be imposed alone or in conjunction with the imposition of a sanction(s) include, but are not limited to, the following:

(a) **Restitution.** Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(b) **Professional evaluation.** Referral for drug, alcohol, psychological or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as approved by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. A student may not return to campus if the evaluation indicates that the student is not capable of functioning within the college community, or if the evaluation lacks information for the college to make reasonable accommodations, or until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(c) **No contact/trespass order.** An order directing a student to have no contact with a specified student, college employee, a member of the college community, or a particular college facility for a stated period of time.

NEW SECTION

WAC 132Y-125-005 Statement of jurisdiction. The student conduct code shall apply to student conduct that occurs on college premises, to conduct that occurs at or in connection with college sponsored activities, or to off-campus conduct that, in the judgment of the college, adversely affects the college community or the pursuit of its objectives. Jurisdiction extends to, but is not limited to, locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences, or any other college-sanctioned social or club activities. Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. The college has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct that occurs off-campus.

NEW SECTION

WAC 132Y-125-010 Definitions. The following definitions shall apply for purposes of this student conduct code:

(1) "Business day" means a weekday, excluding weekends and college holidays and/or college closures.

(2) "College premises" includes all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

(3) "Conduct review officer" is the vice-president for student services or other college administrator designated by the president to be responsible for receiving and for reviewing or referring appeals of student disciplinary actions, in accordance with the procedures of this code. The president is authorized to reassign any and all of the conduct review officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

(4) "Disciplinary action" is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code.

(5) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the student conduct officer. Disciplinary appeals from a suspension in excess of ten instructional days or an expulsion are heard by the student conduct appeals board. Appeals of all other appealable disciplinary action shall be reviewed through brief adjudicative proceedings.

(6) "Filing" is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Unless otherwise provided, filing shall be accomplished by:

(a) Hand delivery of the document to the specified college official or college official's assistant; or

(b) Sending the document by e-mail and first class mail to the specified college official's office and college e-mail address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official.

(7) "The president" is the president of Edmonds Community College. The president is authorized to delegate any of his or her responsibilities as set forth in this chapter, and as may be reasonably necessary.

(8) "Respondent" is the student against whom disciplinary proceedings have been initiated or who has received sanctions.

(9) "Service" is the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) Sending the document by e-mail and by certified mail or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is e-mailed and deposited in the mail.

(10) "Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially

enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered "students."

(11) "Student conduct officer" is a college administrator designated by the vice-president for student services to be responsible for implementing and enforcing the student conduct code. The vice-president for student services is authorized to reassign any and all of the student conduct officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

NEW SECTION

WAC 132Y-125-015 Initiation of disciplinary action.

(1) All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint initiated by the respondent, the vice-president for student services shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(2) The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing him or her to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and shall also specify the time and location of the meeting. At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting after proper service of notice, the student conduct officer may take disciplinary action based upon the available information.

(3) Within ten days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting his or her decision, the specific student conduct code provisions found to have been violated, the discipline imposed, if any, and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal.

(4) The student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the respondent and terminate the proceedings; or

(b) Impose a disciplinary sanction(s), as described in WAC 132Y-125-001 (4) and (5).

(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the respondent.

NEW SECTION

WAC 132Y-125-020 Appeal from disciplinary action.

(1) The respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within twenty-one days of service of the student conduct officer's decision. Failure to timely file a notice of

appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent and the conduct review officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(7) The student conduct committee shall hear appeals from:

(a) The imposition of disciplinary suspensions in excess of ten instructional days;

(b) Dismissals; and

(c) Disciplinary cases referred to the committee by the student conduct officer, the conduct review officer, or the president.

(8) Student conduct appeals of the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:

(a) Suspensions of ten instructional days or less;

(b) Probation;

(c) Written reprimands; and

(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(9) Except as provided elsewhere in these rules, disciplinary verbal warnings and dismissals of disciplinary actions are final action and are not subject to appeal.

NEW SECTION

WAC 132Y-125-025 Brief adjudicative proceedings

—**Initial hearing.** (1) Brief adjudicative proceedings shall be conducted by a conduct review officer designated by the vice-president for student services. The conduct review officer shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:

(a) An opportunity to be informed of the agency's view of the matter; and

(b) An opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon both the parties within ten days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within twenty-one days of service of the initial decision, the initial decision shall be deemed the final decision.

(4) If the conduct review officer, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

NEW SECTION

WAC 132Y-125-030 Brief adjudicative proceedings—Review of an initial decision. (1) An initial decision is subject to review by the president, provided the respondent files a written request for review with the conduct review officer within twenty-one days of service of the initial decision.

(2) The president shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president shall give each party an opportunity to file written responses explaining their views of the matter and shall make any inquiries necessary to ascertain whether the sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within twenty days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within twenty days after the request is submitted.

(5) If the president upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

NEW SECTION

WAC 132Y-125-035 Student conduct committee. (1) The student conduct committee shall consist of five members:

- (a) Two full-time students appointed by the student government;
- (b) Two faculty members appointed by the president;
- (c) One administrator (other than an administrator serving as a student conduct or conduct review officer) appointed by the president at the beginning of the academic year.

(2) The administrative staff member appointed on a yearly basis shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee so long as one faculty member and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student conduct committee shall not participate in any case in which they are a party, complainant, or witness; in which they have direct or personal interest, prejudice, or bias; or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4).

NEW SECTION

WAC 132Y-125-040 Appeal—Student conduct committee. (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW and by the Model Rules of Procedure, chapter 10-08 WAC. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(2) The student conduct committee chair shall serve all parties with written notice of any hearing not less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The chair may shorten this notice period if both parties agree, and may continue the hearing to a later time for good cause shown.

(3) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request filed at least five days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of:

- (a) The conduct officer's notification of imposition of discipline (or referral to the committee); and
- (b) The notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer, upon request, shall provide reasonable assistance to the respondent in obtaining relevant and admissible evidence that is within the college's control.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate. Any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) Each party may be accompanied at the hearing by a nonattorney assistant of his/her choice. A respondent may elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer. The committee will ordinarily be advised by an assistant attorney general. If the respondent is represented by an attorney, the student conduct officer may also be represented by a second appropriately screened assistant attorney general.

NEW SECTION

WAC 132Y-125-045 Student conduct committee hearings—Presentations of evidence. (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

(a) Proceed with the hearing and issuance of its decision; or

(b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that he/she selects, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer, unless represented by an assistant attorney general, shall present the case for imposing disciplinary sanctions.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

NEW SECTION

WAC 132Y-125-050 Student conduct committee—Initial decision. (1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within twenty days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including

which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's initial order shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall identify and impose disciplinary sanction(s) or conditions, if any, as authorized in the student code. If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the disciplinary sanction and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanction(s) or conditions as authorized herein.

(4) The committee chair shall cause copies of the initial decision to be served on the parties and their legal counsel of record. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

NEW SECTION

WAC 132Y-125-055 Appeal from student conduct committee initial decision. (1) A respondent who is aggrieved by the findings or conclusions issued by the student conduct committee may appeal the committee's initial decision to the president by filing a notice of appeal with the president's office within twenty-one days of service of the committee's initial decision. Failure to file a timely appeal constitutes a waiver of the right and the initial decision shall be deemed final.

(2) The notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain argument why the appeal should be granted. If necessary to aid review, the president may ask for additional briefing from the parties on issues raised on appeal. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the notice of appeal.

(3) The president shall provide a written decision to all parties within forty-five days after receipt of the notice of appeal. The president's decision shall be final and shall include a notice of any rights to request reconsideration and/or judicial review.

(4) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

NEW SECTION

WAC 132Y-125-060 Summary suspension. (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety, or welfare of members of the college community; or

(c) Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassing from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.

(5) If the respondent chooses to appeal the summary suspension, the conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.

(a) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope;

(b) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope;

(c) If the student fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings;

(d) As soon as practicable following the hearing, the conduct review officer shall issue a written decision, which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal; and

(e) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices, who may be bound or protected by it.

DISCIPLINE PROCEDURES FOR CASES INVOLVING ALLEGATIONS OF SEXUAL MISCONDUCT

NEW SECTION

WAC 132Y-125-100 Supplemental sexual misconduct procedures. Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial disciplinary decision making process and to appeal any disciplinary decision.

Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct by a student. In such cases, these procedures shall supplement the student disciplinary procedures in WAC 132Y-125-005 through 132Y-125-060. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct policy and procedures, including investigation, findings, and recommendations shall prevail.

NEW SECTION

WAC 132Y-125-105 Supplemental definitions. The following supplemental definitions shall apply for purposes of student conduct code proceedings involving allegations of sexual misconduct by a student:

(1) A "complainant" is an alleged victim of sexual misconduct, as defined in subsection (2) of this section.

(2) "Sexual misconduct" has the meaning ascribed to this term in WAC 132Y-125-001 (3)(p).

NEW SECTION

WAC 132Y-125-110 Supplemental complaint process. The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student.

(1) The college's Title IX coordinator or designee shall investigate complaints or other reports of alleged sexual misconduct by a student. Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(2) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent. In no event shall mediation be used to resolve complaints involving allegations of sexual violence. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time.

(3) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety, and welfare of the complainant or other members of the college community or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

(4) The student conduct officer, prior to initiating disciplinary action, will make a reasonable effort to contact the complainant to discuss the results of the investigation and

possible disciplinary sanctions and/or conditions, if any, that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.

(5) The student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of his or her appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure prompt notice of the protective disciplinary sanctions and/or conditions.

NEW SECTION

WAC 132Y-125-115 Supplemental appeal rights. (1)

The following actions by the student conduct officer may be appealed by the complainant:

(a) The dismissal of a sexual misconduct complaint; or
 (b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary verbal warning.

(2) A complainant may appeal a disciplinary decision by filing a notice of appeal with the conduct review officer within twenty-one days of service of the notice of the discipline decision provided for in WAC 132Y-125-110(5). The notice of appeal may include a written statement setting forth the grounds of appeal. Failure to file a timely notice of appeal constitutes a waiver of this right and the disciplinary decision shall be deemed final.

(3) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.

(4) Except as otherwise specified in this supplemental procedure, a complainant who timely appeals a disciplinary decision or who intervenes as a party to respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

(5) An appeal by a complainant from the following disciplinary actions involving allegations of sexual misconduct against a student shall be handled as a brief adjudicative proceeding:

(a) Exoneration and dismissal of the proceedings;
 (b) Verbal warning;
 (c) Written reprimand;
 (d) Probation;
 (e) Suspensions of ten instructional days or less; and/or
 (f) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(6) An appeal by a complainant from disciplinary action imposing a suspension in excess of ten instructional days or an expulsion shall be reviewed by the student conduct committee.

(7) In proceedings before the student conduct committee, respondent and complainant shall have the right to be accom-

panied by a nonattorney assistant of their choosing during the appeal process. Complainant may choose to be represented at the hearing by an attorney at his or her own expense, but will be deemed to have waived that right unless, at least four business days before the hearing, he or she files a written notice of the attorney's identity and participation with the committee chair, and with copies to the respondent and the student conduct officer.

(8) In proceedings before the student conduct committee, complainant and respondent shall not directly question or cross examine one another. All questions shall be directed to the committee chair, who will act as an intermediary and pose questions on behalf of both parties.

(9) Student conduct hearings involving sexual misconduct allegations shall be closed to the public, unless respondent and complainant both waive this requirement in writing and request that the hearing be open to the public. Complainant, respondent and their respective nonattorney assistants and/or attorneys may attend portions of the hearing where argument, testimony, and/or evidence are presented to the student conduct committee.

(10) The chair of the student conduct committee, on the same date as the initial decision is served on the respondent, will serve a written notice upon complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of his or her appeal rights.

(11) Complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties.

(12) The president or designee, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132Y-125-004 Disciplinary procedures.

WSR 15-12-069

PERMANENT RULES

EDMONDS COMMUNITY COLLEGE

[Filed May 29, 2015, 10:28 a.m., effective June 29, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The existing grievance [p]rocedure for sex discrimination WAC had not been updated since 1989. The new nondiscrimination and harassment policy WAC brings the college into compliance with new state and federal laws,

including compliance with Title IX and the Violence Against Women Reauthorization Act (VAWA). The new WAC accomplishes the following: (1) Updates our protections for students and employees from discrimination and harassment; (2) clarifies complaint and appeal procedures for investigations; and (3) conforms with recent federal mandates for compliance under Title IX.

Citation of Existing Rules Affected by this Order: Repealing chapter 132Y-300 WAC, Grievance procedure for sex discrimination; and amending chapter 132Y-300 WAC, Nondiscrimination and harassment policy.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Other Authority: Federal Statutes - Title IX, 20 U.S.C. § 1681 et seq.; VAWA, 42 U.S.C. § 13925; Edmonds CC Board of Trustees Resolution No. 15-5-3.

Adopted under notice filed as WSR 15-05-080 on February 18, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 4, Amended 0, Repealed 3; Federal Rules or Standards: New 4, Amended 0, Repealed 3; or Recently Enacted State Statutes: New 4, Amended 0, Repealed 3.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 4, Amended 0, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 0, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 19, 2015.

Suzanne Moreau
Interim Executive Director
of Human Resources
Rules Coordinator

Chapter 132Y-300 WAC

~~((GRIEVANCE PROCEDURE FOR SEX DISCRIMINATION))~~ **NONDISCRIMINATION AND HARASSMENT POLICY**

NEW SECTION

WAC 132Y-300-005 Statement of policy. Edmonds Community College provides equal opportunity in education and employment and does not discriminate on the basis of protected classes as required by state and federal law. Prohibited discrimination and/or harassment of protected classes includes sexual harassment.

(1) Harassment is defined, for the purpose of this policy, as unwelcome and unauthorized incidents and/or patterns of conduct or speech that are:

(a) Persistent, pervasive, or severe; and

(b) Based on an association or perceived association with a protected class and which:

(i) The respondent either knows, or should know, will have the effect of making the college environment hostile, intimidating, or demeaning to the complainant; and

(ii) Renders the college environment (including the environment for employees, students, and visitors) hostile, intimidating, or demeaning for the complainant.

(2) Sexual harassment is a form of sex discrimination. Sexual harassment is defined, for the purpose of this policy, as unwelcome sexual advances, requests, and other unwelcome conduct of a sexual nature where:

(a) Submission to such conduct is made, either expressly or implicitly, a term or condition of an individual's employment or education; or

(b) Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting any individual; or

(c) Such unwelcome conduct is sufficiently persistent, pervasive, or severe to have the effect of substantially interfering with any individual's academic or professional performance.

(3) Sexual harassment conduct includes, but is not limited to, engaging in unwelcome sexual advances; requesting sexual favors; engaging in other sexual behaviors including verbal, nonverbal, electronic or social media communication; or physically touching that would create an intimidating, hostile, or offensive educational environment or substantially interfere with a reasonable person's work or educational performance.

NEW SECTION

WAC 132Y-300-010 Procedures. (1) Introduction. Edmonds Community College, hereinafter referred to as "the college," recognizes its responsibility for investigating and resolving incidents; implementing corrective measures; monitoring the educational environment and workplace; and implementing regulations to stop, remediate, and prevent discrimination and harassment based on an individual's association or perceived association with protected classes as required by law. To this end, the college has enacted a policy prohibiting discrimination against and harassment of members of these protected classes and procedures that deal with complaints and violations of the policy. Any individual found to be in violation of the policy will be subject to disciplinary action up to and including expulsion from the college or dismissal from employment.

Any employee, student, or visitor who is the alleged subject of discrimination or harassment should report the incident or incidents to the EO/AA office, Title IX coordinator identified below. If the complaint is against that officer, the complainant should report the matter to the president's office for referral to an alternate designee.

Civil Rights: Equal Opportunity/Affirmative Action (EO/AA).

Title IX: Gender Discrimination, Sexual Harassment, and Sexual Violence.

Title: EO/AA Office, Title IX Coordinator

Office: Edmonds Community College

20000 - 68th Ave. W.

Clearview Building, Room 122

Lynnwood, WA 98036

The EO/AA office, Title IX coordinator or designee:

- Will accept all complaints and referrals from college employees, students, and visitors.
- Will make determinations regarding how to handle requests by complainants for privacy.
- Will keep accurate records of all complaints and referrals for the required time period.
- May conduct investigations or assign and oversee investigations conducted by others.
- May impose interim remedial measures to protect parties during investigations of discrimination or harassment.
- Will issue written findings of fact on completed investigations.
- May recommend specific corrective measures to stop, remediate, and prevent the recurrence of inappropriate action.

(2) Definitions.

(a) Complainant. Any employee, student, or visitor of the college who is the alleged subject of discrimination or harassment due to an association or perceived association with a protected class.

(b) Complaint. A description of facts that allege violation of the college's nondiscrimination and harassment policy.

(c) Consent. Knowing, voluntary, and clear permission, by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

Individuals cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when that person knows, or should know, that the other individual is physically or mentally incapacitated has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(d) Discrimination. The unfavorable treatment of a person based on an individual's association or perceived association with a protected class. Harassment is a form of discrimination.

(e) Harassment. Unwelcome and unauthorized incidents and/or patterns of conduct or speech that are persistent, pervasive, or severe and based on an association or perceived association with a protected class; and which the respondent either knows, or should know, will have the effect of making the college environment hostile, intimidating, or demeaning to the complainant, and renders the college environment (including the environment for employees, students, and visitors) hostile, intimidating, or demeaning for the complainant. Examples of conduct that could rise to the level of discriminatory harassment include, but are not limited to, the following:

- Epithets, "jokes," ridicule, mockery, or other offensive or derogatory conduct focused upon an individual's membership in a protected class.

- Verbal or physical threats of violence or physical contact directed towards an individual based upon their membership in a protected class.

- Making, posting, e-mailing, texting, or otherwise circulating demeaning or offensive pictures, cartoons, graffiti, notes or other materials that relate to race, ethnic origin, gender, or any other protected class.

(f) Protected class. A group of individuals who are protected under state or federal laws, including laws that prohibit discrimination on the basis of age, citizenship, color, creed, disability, gender identity or expression, genetic information, marital status, national origin, pregnancy, race, religion, sex, sexual orientation, use of service animal, or veteran/military status.

(g) Resolution. The means by which the complaint is finally addressed. This may be accomplished through informal or formal processes, including counseling, mediation, or the formal imposition of discipline.

(h) Respondent. An individual who is a member of the campus community who allegedly discriminates against or harasses another person.

(i) Sexual harassment. Unwelcome sexual advances, requests, and other unwelcome conduct of a sexual nature where submission to such conduct is made, either expressly or implicitly, a term or condition of an individual's employment or education; or submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting any individual; or such unwelcome conduct is sufficiently persistent, pervasive, or severe to have the effect of substantially interfering with any individual's academic or professional performance. Two types of sexual harassment include:

(i) Hostile environment sexual harassment. A form of harassment that occurs when the conduct is sufficiently persistent, pervasive, or severe and so objectively offensive that it has the effect of altering the terms or conditions of an employee's employment or substantially limiting the ability of a student to participate in or benefit from the college's educational programs, social programs, and/or student housing.

(ii) Quid pro quo sexual harassment. A form of harassment that occurs when an individual in a position of real or perceived authority makes receiving a benefit conditional upon granting of sexual favors.

Examples of conduct that may qualify as sexual harassment include:

- Persistent comments or questions of a sexual nature.
- A supervisor who gives an employee a raise in exchange for submitting to sexual advances.
- An instructor who promises a student a better grade in exchange for sexual favors.
- Sexually explicit statements, questions, jokes, or anecdotes.
- Unwelcome touching, patting, hugging, kissing, or brushing against an individual's body.
- Remarks of a sexual nature about an individual's clothing, body, or speculations about previous sexual experiences.
- Persistent, unwanted attempts to change a professional relationship to an amorous relationship.
- Direct or indirect propositions for sexual activity.

- Unwelcome letters, e-mails, texts, telephone calls, or other communications referring to or depicting sexual activities.

(j) **Sexual violence.** A type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(i) **Nonconsensual sexual intercourse** is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(ii) **Nonconsensual sexual contact** is any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(iii) **Domestic violence** includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

(iv) **Dating violence** is violence by a person who has been in a romantic or intimate relationship with the complainant. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

(v) **Stalking** is intentional and repeated harassment or following of another person, which places that person in reasonable fear that the respondent intends to injure, intimidate, or harass that person. Stalking also includes instances where the respondent knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the respondent lacks such intent.

(3) **Filing a complaint.** The college encourages the timely reporting of any incidents of alleged discrimination or harassment. Any employee of, student of, or visitor to the college may file a complaint. Complaints may be submitted in writing or verbally.

For complainants who wish to submit a written complaint, a formal complaint form is available online at www.edcc.edu/titleix/. Hardcopies of the complaint form are available at the following locations on campus: Human resources office, and vice-president for student services office. Any person submitting a discrimination or harassment complaint shall be provided with a written copy of the college's nondiscrimination and harassment policy and procedures.

(4) **Confidentiality and right to privacy.** The college will seek to protect the privacy of the individuals involved to the fullest extent possible, consistent with the legal obligation to investigate, take appropriate remedial and/or disciplinary action, comply with the state and federal laws, and follow the college's policy and procedures. The college cannot guarantee complete confidentiality. The EO/AA office, Title IX coordinator or designee will determine how to handle requests for privacy.

The EO/AA office, Title IX coordinator or designee will inform and obtain consent from the complainant before com-

mencing an investigation into a sexual violence complaint. If a sexual violence complainant asks for their name to not be revealed to the respondent or that the college not investigate the allegation, the EO/AA office, Title IX coordinator or designee will inform the complainant that maintaining confidentiality may limit the college's ability to fully respond to the allegations and that retaliation by the respondent and/or others is prohibited. If the complainant still insists that their name not be disclosed or that the college not investigate, the EO/AA office, Title IX coordinator or designee will determine whether the college can honor the request and at the same time maintain a safe and nondiscriminatory environment for all members of the college community, including the complainant. Factors to be weighed during this determination may include, but are not limited to:

- The seriousness of the alleged sexual violence;
- The age of the complainant;
- Whether the sexual violence was perpetrated with a weapon;
- Whether the respondent has a history of committing acts of sexual violence or has been the subject of other sexual violence complaints;
- Whether the respondent threatened to commit additional acts of sexual violence against the complainant or others; and
- Whether relevant evidence can be obtained through other means (e.g., security cameras, other witnesses, physical evidence).

If the college is unable to honor a complainant's request for privacy, the EO/AA office, Title IX coordinator or designee will notify the complainant of the decision and ensure that complainant's identity is disclosed only to the extent reasonably necessary to effectively conduct and complete the investigation.

If the college decides not to conduct an investigation or take disciplinary action because of a request for privacy, the EO/AA office, Title IX coordinator or designee will evaluate whether other measures are available to limit the effects of the harassment and prevent its recurrence and implement such measures if reasonably feasible.

(5) **Investigation procedure.** Upon receiving a complaint, the college shall commence an impartial investigation. The EO/AA office, Title IX coordinator or designee shall be responsible for overseeing all investigations. The EO/AA office, Title IX coordinator or designee may conduct investigations. If the investigation is assigned to someone other than the EO/AA office, Title IX coordinator or designee then the complainant and respondent shall be notified of the appointment of an investigator.

(a) **Interim measures.** The EO/AA office, Title IX coordinator or designee may impose interim measures to protect the complainant and/or respondent pending the conclusion of the investigation. Interim measures may include, but are not limited to, imposition of noncontact orders, rescheduling classes, temporary work reassignments, referrals for counseling or medical assistance, and imposition of summary discipline on the respondent consistent with the college's student code of conduct or the college's employment policies and collective bargaining agreements.

(b) **Investigation.** Complaints shall be thoroughly and impartially investigated. The investigation shall include, but will not be limited to, interviewing the complainant and the respondent, interviewing relevant witnesses, and reviewing relevant documents. The investigation shall be concluded within a reasonable time, normally sixty days barring urgent circumstances. At the conclusion of the investigation, the investigator(s) shall set forth findings and recommendations in writing. If the investigator(s) is a designee, the investigator(s) shall send a copy of the findings and recommendations to the EO/AA office, Title IX coordinator or designee. The EO/AA office, Title IX coordinator or designee shall consider the findings and recommendations and determine, based on a preponderance of evidence, whether a violation of the nondiscrimination and harassment policy occurred, and, if so, what steps will be taken to resolve the complaint, remedy the effects of the violation on the complainant, and prevent the violation's recurrence. Possible remedial steps may include, but will not be limited to, referral for voluntary training/counseling, development of a remediation plan, a non-contact order, and referral and recommendation for formal disciplinary action. Referrals for disciplinary action will be consistent with the college's student code of conduct or the college's employment policies and collective bargaining agreements.

(c) **Written notice of decision.** The EO/AA office, Title IX coordinator or designee will provide each party and the appropriate student services administrator or appointing authority with written notice of the investigative findings and of actions taken or recommended in an effort to resolve the complaint, subject to the following limitations. The complainant shall be informed in writing of the findings and of actions taken or recommendations in an effort to resolve the complaint, such as a finding that the complaint is or is not meritorious or a recommendation that the respondent not contact the complainant. The complainant may be notified generally that the matter has been referred for disciplinary action. The respondent shall be informed in writing of the findings and of actions taken or recommended to resolve the complaint and shall be notified of referrals for disciplinary action. Both the complainant and the respondent are entitled to review any final findings, conclusions, and recommendations, subject to any FERPA confidentiality requirements.

(d) **Informal dispute resolution.** Informal dispute resolution processes, such as mediation, may be used to resolve complaints, when appropriate. Informal dispute resolution shall not be used to resolve sexual discrimination complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(e) **Final decision/reconsideration.** Either the complainant or the respondent may seek reconsideration of the decision by the EO/AA office, Title IX coordinator or designee. Requests for reconsideration must be submitted in writing to the EO/AA office, Title IX coordinator or designee within seven days of receiving the decision. Requests must specify which portion of the decision should be reconsidered and the basis for reconsideration. If no request for reconsideration is received within seven days, the decision becomes final. If a request for reconsideration is received, the EO/AA office, Title IX coordinator or designee shall respond within 14 days. The EO/AA office, Title IX coordinator or designee shall either deny the request or will issue an amended decision. Any amended decision is final and no further reconsideration is available.

(6) **Publication of nondiscrimination and harassment policy and procedures.** The policy and procedures regarding complaints of discrimination and harassment shall be published and distributed as determined by the president or designee. Individuals who believe they have been subjected to discrimination or harassment will be provided a copy of the policy and procedures.

(7) **Limits to authority.** Nothing in these procedures shall prevent the president or designee from taking immediate disciplinary action in accordance with the college's policies and procedures, and federal, state, and/or municipal rules and regulations.

(8) **Retaliation, intimidation, and coercion.** Retaliation by, for, or against any participant (including complainant, respondent, witness, investigator, or EO/AA office, Title IX coordinator or designee) is expressly prohibited. Retaliatory action of any kind taken against a participant who is seeking redress under the nondiscrimination and harassment policy and using these procedures is prohibited and is subject to discipline. Individuals who think they have been retaliated against, intimidated, or coerced should contact the EO/AA office, Title IX coordinator or designee immediately.

NEW SECTION

WAC 132Y-300-015 Other remedies. (1) Criminal complaints. Discriminatory or harassing conduct may also be, or occur in conjunction with, criminal conduct. Criminal complaints may be filed with the following law enforcement authorities:

City of Edmonds Police Department
<http://www.edmondswa.gov/government/departments/police.html>

City of Lynnwood Police Department
<http://www.ci.lynnwood.wa.us/Public-Safety/Police-Department>

Snohomish County Sheriff's Department
<http://snohomishcountywa.gov/210/Sheriff>

The college will proceed with an investigation of harassment and discrimination complaints regardless of whether the underlying conduct is subject to civil or criminal prosecution.

(2) **Other discrimination complaint options.** Discrimination complaints may also be filed with the following federal and state agencies:

Washington State Human Rights Commission
www.hum.wa.gov/index.html

U.S. Department of Education Office for Civil Rights
<http://www2.ed.gov/about/offices/list/ocr/index.html>

Equal Employment Opportunity Commission
www.eeoc.gov

NEW SECTION

WAC 132Y-300-020 Complaint content. The proposed content is designed to assist you with filing a discrimination and/or harassment complaint. Please write clearly and focus on the alleged discriminatory and/or harassing conduct. The complaint should include as much information regarding the incident(s) giving rise to the complaint as possible, including the location, date, and time of the alleged incident(s); the name of the individual or group whom the complaint is against, if known; a description of the incident(s); and the remedy sought.

You may attach additional documents if needed. Please include your contact information (phone, e-mail, mailing address), sign, and return your complaint to the EO/AA office, Title IX coordinator or designee. A link to an online reporting form is located at <http://www.edcc.edu/titleix/>.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132Y-300-002 Informal procedure.

WAC 132Y-300-003 Formal procedure.

WAC 132Y-300-004 Other remedies.

**WSR 15-12-070
PERMANENT RULES**

**BOARD OF
PILOTAGE COMMISSIONERS**

[Filed May 29, 2015, 11:16 a.m., effective July 1, 2015]

Effective Date of Rule: July 1, 2015.

Purpose: To establish an annual tariff for pilotage services in the Puget Sound pilotage district.

Citation of Existing Rules Affected by this Order:
Amending WAC 363-116-300.

Statutory Authority for Adoption: RCW 88.16.035.

Adopted under notice filed as WSR 15-08-013 on March 24, 2015.

Changes Other than Editing from Proposed to Adopted Version: The only portion of the proposed version that was adopted is under the "tonnage charges" category as follows:

"Notwithstanding the above tonnage charges, there shall be a minimum tonnage charge of \$500.00 applied to:

(1) All LOA Zone I assignments other than assignments of an additional pilot(s) on ship movements involving more than one pilot jointly piloting the vessel; and

(2) All LOA Zone II and greater assignments."

The term of this new tariff is 0001 hours July 1, 2015, through 2400 hours June 30, 2016.

No other proposed changes were adopted.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 29, 2015.

Peggy Larson
Executive Director

AMENDATORY SECTION (Amending WSR 14-24-014, filed 11/20/14, effective 1/1/15)

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours ((January)) July 1, 2015, through 2400 hours June 30, ((2015)) 2016.

CLASSIFICATION**RATE**

Ship length overall (LOA)

Charges:

Per LOA rate schedule in this section.

Pilot boat fee:

\$348.00

Per each boarding/deboarding at the Port Angeles pilot station.

Harbor shift - Live ship (Seattle Port)

LOA Zone I

Harbor shift - Live ship (other than Seattle Port)

LOA Zone I

Harbor shift - Dead ship

Double LOA Zone I

Towing charge - Dead ship:

Double LOA Zone

LOA of tug + LOA of tow + beam of tow

Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

Compass Adjustment	\$359.00
Radio Direction Finder Calibration	\$359.00
Launching Vessels	\$540.00
Trial Trips, 6 hours or less (minimum \$1,014.00)	\$169.00 per hour
Trial Trips, over 6 hours (two pilots)	\$338.00 per hour
Shilshole Bay - Salmon Bay	\$211.00
Salmon Bay - Lake Union	\$164.00
Lake Union - Lake Washington (plus LOA zone from Webster Point)	\$211.00
Cancellation Charge	LOA Zone I
Cancellation Charge - Port Angeles:	LOA Zone II
(When a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for a pilot or when a pilot order is canceled less than twelve hours prior to the original ETA.)	

Waterway and Bridge Charges:

Ships up to 90' beam:

A charge of \$266.00 shall be in addition to bridge charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of \$127.00 per bridge.

Ships 90' beam and/or over:

A charge of \$361.00 shall be in addition to bridge charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of \$251.00 per bridge.

(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Two or three pilots required:

In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

Docking Delay After Anchoring:

Applicable harbor shift rate to apply, plus \$274.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$274.00 for every hour or fraction thereof.

Sailing Delay:

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$274.00 for every hour or fraction thereof. The assessment of the standby charge shall not exceed a period of twelve hours in any twenty-four-hour period.

Slowdown:

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of \$274.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Delayed Arrival - Port Angeles:

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of \$274.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Tonnage Charges:

0 to 20,000 gross tons:

Additional charge to LOA zone mileage of \$0.0084 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:

Additional charge to LOA zone mileage of \$0.0814 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:

In excess of 50,000 gross tons, the charge shall be \$0.0974 per gross ton.

Notwithstanding the above tonnage charges, there shall be a minimum tonnage charge of \$500.00 applied to:

(1) All LOA Zone I assignments other than assignments of an additional pilot(s) on ship movements involving more than one pilot jointly piloting the vessel; and

(2) All LOA Zone II and greater assignments.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Transportation to Vessels on Puget Sound:

March Point or Anacortes	\$195.00
Bangor	190.00
Bellingham	225.00
Bremerton	167.50
Cherry Point	260.00
Dupont	120.00
Edmonds	42.50
Everett	72.50
Ferndale	247.50
Manchester	162.50
Mukilteo	65.00
Olympia	155.00
Point Wells	42.50
Port Gamble	230.00
Port Townsend (Indian Island)	277.50
Seattle	18.75
Tacoma	87.50

(a) Intraharbor transportation for the Port Angeles port area: Transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.

(b) Interport shifts: Transportation paid to and from both points.

(c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is canceled on or before scheduled reporting time, transportation paid one way only.

(d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.

(e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$2.00 per mile.

Delinquent Payment Charge:

1 1/2% per month after 30 days from first billing.

Nonuse of Pilots:

Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage charges on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

British Columbia Direct Transit Charge:

In the event that a pilot consents to board or disembark a vessel at a British Columbia port, which consent shall not unreasonably be withheld, the following additional charges shall apply in addition to the normal LOA, tonnage and other charges provided in this tariff that apply to the portion of the transit in U.S. waters:

Direct Transit Charge

\$2,107.00

Sailing Delay Charge. Shall be levied for each hour or fraction thereof that the vessel departure is delayed beyond its scheduled departure from a British Columbia port, provided that no charge will be levied for delays of one hour or less and further provided that the charge shall not exceed a period of 12 hours in any 24 hour period.

\$283.00 per hour

Slow Down Charge. Shall be levied for each hour or fraction thereof that a vessel's arrival at a U.S. or BC port is delayed when a vessel chooses not to maintain its normal safe speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater from the arrival time had the vessel maintained its normal safe speed capabilities.

\$283.00 per hour

Cancellation Charge. Shall be levied when a pilot arrives at a vessel for departure from a British Columbia port and the job is canceled. The charge is in addition to the applicable direct transit charge, standby, transportation and expenses.

\$525.00

Transportation Charge Vancouver Area. Vessels departing or arriving at ports in the Vancouver-Victoria-New Westminster Range of British Columbia.

\$514.00

Transportation Charge Outports. Vessels departing or arriving at British Columbia ports other than those in the Vancouver-Victoria-New Westminster Range.

\$649.00

Training Surcharge:

On January 1, 2011, a surcharge of \$15.00 for each pilot trainee then receiving a stipend pursuant to the training program provided in WAC 363-116-078 shall be added to each pilotage assignment.

LOA Rate Schedule:

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
(Length Overall)	I	II	III	IV	V	VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
UP to 449	263	381	650	968	1,304	1,692
450 - 459	274	388	653	983	1,325	1,700
460 - 469	276	392	665	999	1,343	1,708
470 - 479	285	404	672	1,020	1,347	1,711
480 - 489	294	410	675	1,038	1,355	1,719
490 - 499	298	416	685	1,057	1,371	1,728
500 - 509	313	423	695	1,068	1,383	1,738
510 - 519	315	431	702	1,085	1,398	1,744
520 - 529	319	447	712	1,090	1,410	1,758
530 - 539	329	452	721	1,102	1,432	1,778
540 - 549	334	458	738	1,114	1,454	1,795
550 - 559	341	474	742	1,130	1,466	1,812
560 - 569	353	493	757	1,141	1,479	1,828
570 - 579	361	496	760	1,146	1,495	1,841
580 - 589	376	505	778	1,154	1,503	1,859
590 - 599	393	516	782	1,160	1,526	1,882
600 - 609	408	532	794	1,164	1,544	1,890
610 - 619	431	537	807	1,169	1,559	1,907
620 - 629	447	543	814	1,183	1,577	1,929
630 - 639	468	552	824	1,186	1,591	1,946
640 - 649	486	566	832	1,188	1,604	1,960
650 - 659	520	575	847	1,197	1,624	1,981
660 - 669	530	582	854	1,205	1,642	1,996
670 - 679	550	597	863	1,226	1,660	2,009
680 - 689	557	607	874	1,237	1,674	2,028
690 - 699	574	616	888	1,258	1,692	2,071
700 - 719	599	637	904	1,275	1,725	2,093
720 - 739	634	653	927	1,292	1,758	2,128
740 - 759	659	685	945	1,304	1,795	2,167
760 - 779	685	707	968	1,325	1,828	2,194
780 - 799	719	738	983	1,343	1,859	2,234
800 - 819	748	760	1,002	1,350	1,890	2,268
820 - 839	771	788	1,025	1,371	1,929	2,293
840 - 859	804	820	1,046	1,387	1,958	2,333
860 - 879	834	847	1,064	1,423	1,996	2,367
880 - 899	863	871	1,085	1,455	2,028	2,402
900 - 919	889	900	1,103	1,494	2,071	2,434
920 - 939	917	927	1,130	1,526	2,091	2,468
940 - 959	950	952	1,147	1,559	2,128	2,498
960 - 979	971	980	1,167	1,591	2,167	2,535

LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
(Length Overall)	I	II	III	IV	V	VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
980 - 999	1,003	1,002	1,187	1,624	2,194	2,568
1000 - 1019	1,065	1,067	1,240	1,710	2,299	2,678
1020 - 1039	1,094	1,098	1,279	1,758	2,368	2,757
1040 - 1059	1,127	1,125	1,316	1,812	2,435	2,838
1060 - 1079	1,161	1,165	1,355	1,866	2,511	2,922
1080 - 1099	1,196	1,197	1,394	1,920	2,585	3,011
1100 - 1119	1,230	1,234	1,437	1,980	2,662	3,102
1120 - 1139	1,268	1,274	1,481	2,037	2,742	3,194
1140 - 1159	1,304	1,310	1,523	2,098	2,825	3,291
1160 - 1179	1,343	1,347	1,571	2,161	2,909	3,388
1180 - 1199	1,384	1,388	1,616	2,226	2,997	3,491
1200 - 1219	1,427	1,430	1,664	2,293	3,087	3,593
1220 - 1239	1,467	1,473	1,713	2,362	3,177	3,701
1240 - 1259	1,511	1,516	1,763	2,432	3,274	3,811
1260 - 1279	1,555	1,561	1,817	2,505	3,373	3,925
1280 - 1299	1,602	1,609	1,872	2,580	3,471	4,044
1300 - 1319	1,651	1,655	1,927	2,657	3,576	4,164
1320 - 1339	1,701	1,705	1,986	2,736	3,682	4,290
1340 - 1359	1,749	1,756	2,045	2,817	3,792	4,419
1360 - 1379	1,803	1,807	2,106	2,903	3,905	4,549
1380 - 1399	1,855	1,861	2,171	2,989	4,022	4,687
1400 - 1419	1,912	1,918	2,233	3,077	4,142	4,826
1420 - 1439	1,968	1,976	2,301	3,171	4,268	4,971
1440 - 1459	2,029	2,035	2,371	3,265	4,395	5,120
1460 - 1479	2,086	2,094	2,440	3,362	4,527	5,270
1480 - 1499	2,150	2,157	2,512	3,462	4,661	5,429
1500 - Over	2,215	2,222	2,587	3,568	4,800	5,591

WSR 15-12-074**PERMANENT RULES****HEALTH CARE AUTHORITY**

(Washington Apple Health)

[Filed May 29, 2015, 12:50 p.m., effective July 1, 2015]

Effective Date of Rule: July 1, 2015.

Purpose: The agency is removing two provider types from the list of providers who are eligible to perform EPSDT screens and bill an enhanced rate: (1) Nurses trained through the department of health to perform EPSDT screens and (2) registered nurses.

Citation of Existing Rules Affected by this Order: Amending WAC 182-534-0200.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 15-09-073 on April 15, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 29, 2015.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-534-0200 Enhanced payments for EPSDT screens for children in out-of-home placement. The ~~((department reimburses))~~ medicaid agency pays providers an enhanced fee for Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) screens provided to children in out-of-home placement. See the ~~((department's))~~ agency's EPSDT ~~((billing instructions))~~ provider guide for specific billing code requirements, and see the agency's fee schedule for the fee.

(1) For the purposes of this section, out-of-home placement ~~((is defined as))~~ means temporary, twenty-four hour per day ~~((temporary))~~, substitute care for a child:

(a) Placed away from the child's parents or guardians in licensed, paid, out-of-home care; and

(b) For whom the department of social and health services or a licensed or certified child placing agency has placement and care responsibility.

(2) The ~~((department))~~ agency pays an enhanced fee to the providers listed in subsection (3) of this section for EPSDT screens provided to only those children in out-of-home placement.

(3) The following providers are eligible to perform EPSDT screens and bill the enhanced rate for children in out-of-home placement:

(a) EPSDT clinics;

(b) Physicians;

(c) Advanced registered nurse practitioners (ARNPs); and

(d) Physician assistants (PAs) working under ~~((the guidance of a physician;~~

~~((e) Nurses specially trained through the department of health (DOH) to perform EPSDT screens; and~~

~~((f) Registered nurses working under the guidance of a physician or ARNP))~~ a physician's guidance.

(4) ~~((In order))~~ To be paid an enhanced fee, services furnished by the providers listed in subsection (3) of this section must meet the federal requirements for EPSDT screens at 42 C.F.R. Part 441 Subpart B ~~((, which were in effect as of December 1, 2001)).~~

(5) The provider must retain documentation of the EPSDT screens in the client's medical file. The provider must use the ~~((department's))~~ agency's Well Child Exam forms or provide equivalent information. The Well Child Exam forms include the required elements for an EPSDT screen. The Well Child Exam forms ~~((DSHS 13-683A through 13-686B))~~ are available for downloading at no charge at ~~((http://www1-~~

~~dshs.wa.gov/msa/forms/eforms.html))~~ http://www.hca.wa.gov/medicaid/forms/Pages/index.aspx.

(6) The ~~((department conducts evaluations of))~~ agency evaluates client files and payments made under this program. The ~~((department))~~ agency may recover the enhanced payment amount when:

(a) The client was not in out-of-home placement as defined in subsection (1) of this section when the EPSDT screen was provided; or

(b) Documentation was not in the client's medical file (see subsection (5) of this section).

WSR 15-12-075

PERMANENT RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed May 29, 2015, 12:52 p.m., effective July 1, 2015]

Effective Date of Rule: July 1, 2015.

Purpose: The agency is revising these rules in order to clarify billing requirements, allow group services, and remove language referencing fee-for-service and managed care organization (MCO). Although this language is being removed from WAC, Maternity support services continues to be fee-for-service and managed care clients are eligible out-side of their plan.

Citation of Existing Rules Affected by this Order: Amending WAC 182-533-0320, 182-533-0325, and 182-533-0345.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 15-09-134 on April 22, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: May 29, 2015.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-09-061, filed 4/16/14, effective 5/17/14)

WAC 182-533-0320 Maternity support services—Client eligibility. (1) To receive maternity support services (MSS), a client must:

(a) Be covered under categorically needy, medically needy, or state-funded medical programs under Washington apple health; and

(b) Be within the eligibility period of a maternity cycle as defined in WAC 182-533-0315.

~~(2) ((Clients who meet the eligibility criteria in this section and are enrolled in an agency contracted managed care organization (MCO) are eligible for MSS outside their plan.~~

~~(3))~~ Clients who do not agree with an eligibility decision for MSS have a right to a fair hearing under chapter 182-526 WAC.

AMENDATORY SECTION (Amending WSR 14-09-061, filed 4/16/14, effective 5/17/14)

WAC 182-533-0325 Maternity support services—Provider requirements. Maternity support service providers may include community clinics, federally qualified health centers, local health departments, hospitals, nonprofit organizations, and private clinics.

(1) To be paid for providing maternity support services (MSS) and infant case management (ICM) services to eligible clients, a provider must:

(a) Be enrolled as an eligible provider with the medicaid agency (see WAC 182-502-0010).

(b) Be currently approved as an MSS/ICM provider by the medicaid agency.

(c) Meet the requirements in this chapter, chapter 182-502 WAC and the medicaid agency's current billing instructions.

(d) Ensure that professional staff providing services:

(i) Meet the minimum regulatory and educational qualifications for the scope of services provided under WAC 182-533-0327; and

(ii) Follow the requirements in this chapter and the medicaid agency's current billing instructions.

(e) Screen each client for risk factors.

(f) Screen clients for ICM eligibility.

(g) Conduct case conferences under WAC 182-533-0327(2).

(h) Develop and implement an individualized care plan for each client.

(i) Initiate and participate in care coordination activities throughout the maternity cycle with at least MSS interdisciplinary team members, the client's prenatal care provider, and the Women, Infants, and Children (WIC) Nutrition Program.

(j) Comply with Section 1902 (a)(23) of the Social Security Act regarding the client's freedom to choose a provider.

(k) Comply with Section 1915 (g)(1) of the Social Security Act regarding the client's voluntary receipt of services.

(2) MSS providers may provide services in any of the following locations:

(a) A provider's office or clinic.

(b) The client's residence.

(c) An alternate site that is not the client's residence. (The reason for using an alternate site for visitation instead of the home must be documented in the client's record.)

(3) An individual or service organization that has a written contractual agreement with a qualified MSS provider also may provide MSS and ICM services to eligible clients.

(a) The provider must:

(i) Keep a copy of the written subcontractor agreement on file;

(ii) Ensure that an individual or service organization staff member providing MSS/ICM services (the subcontractor) meets the minimum regulatory and educational qualifications required of an MSS/ICM provider;

(iii) Ensure that the subcontractor provides MSS/ICM services under the requirements of this chapter; and

(iv) Maintain professional, financial, and administrative responsibility for the subcontractor.

(b) The provider must:

(i) Bill for services using the provider's ~~((assigned billing number))~~ national provider identifier and MSS/ICM taxonomy; and

(ii) Reimburse the subcontractor for MSS/ICM services provided under the written agreement.

AMENDATORY SECTION (Amending WSR 14-09-061, filed 4/16/14, effective 5/17/14)

WAC 182-533-0345 Maternity support services—Payment. The medicaid agency ~~((must))~~ pays for the covered maternity support services (MSS) described in WAC 182-533-0330 ~~((on a fee-for-service basis))~~, subject to the requirements in this section:

(1) MSS ~~((must be))~~ are:

(a) Provided to a client who meets the eligibility requirements in WAC 182-533-0320.

(b) Provided to a client ~~((on an individual basis in))~~ during a face-to-face encounter on an individual basis or in a group setting. If provided in a group setting, the group must consist of at least three but no more than twelve clients.

(c) Provided by a provider that meets the criteria ~~((established))~~ in WAC 182-533-0325. When provided in a group setting, services may not be provided by a community health worker.

(d) Provided according to the ~~((medicaid))~~ agency's ((current billing instructions)) maternity support services (MSS)/infant case management (ICM) provider guide.

(e) Documented in the client's record or chart.

(f) Billed using:

(i) The eligible client's agency-assigned client identification number;

(ii) The appropriate procedure codes ~~((and))~~ modifiers, and allowed number of units identified in the agency's ((current billing instructions)) MSS/ICM provider guide; and

(iii) The ~~((agency-assigned MSS/ICM provider number. (The medicaid agency pays the provider for providing MSS services to eligible clients, not the provider's subcontractor who provides MSS services. See WAC 182-533-0325(3) about subcontracting for services.)))~~ provider's national provider identifier and MSS/ICM taxonomy.

(2) The ~~((medicaid))~~ agency:

(a) ~~((Must pay))~~ Reimburses providers for MSS-covered services using the agency's published fee schedule.

(b) Pays MSS-covered services in units of time with one unit being equal to fifteen minutes of one-to-one service delivered face-to-face.

~~((b) When directed by the legislature to achieve targeted expenditure levels for payment of maternity support services for any specific biennium, may determine the maximum number of units allowed per client.~~

~~((e) Must publish the maximum number of units allowed per client in the agency's current billing instructions.))~~ (c) Pays MSS-covered services in units of time with one unit being more than or equal to sixty minutes for group services delivered face-to-face.

(3) The provider may request authorization for a limitation extension under WAC 182-501-0169 to exceed the number of allowed MSS units of service ~~((under WAC 182-501-0169.~~

~~((4) For a client enrolled in a managed care plan who is eligible to receive MSS, the medicaid agency must pay for MSS delivered outside the plan on a fee-for-service basis as described in this section)).~~

WSR 15-12-079

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed May 29, 2015, 5:01 p.m., effective June 29, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To require that all complaints filed with the commission be signed under oath by the complainant/member of the public.

The amendment establishes a consistent process for initiating a complaint, regardless of the subject of the complaint. Having consistent requirements for all complainants simplifies the process and makes the requirements easier to understand. The commission received testimony during the rule hearing that it should work to discourage malicious complaints, such as those filed in an effort to gain negative publicity. This amendment generally attempts to enhance the integrity of the complaint process by requiring each complainant to attest that all information provided in complaints is true and correct.

Citation of Existing Rules Affected by this Order: Amending WAC 390-37-020 and 390-37-040.

Statutory Authority for Adoption: RCW 42.17A.110(8).

Adopted under notice filed as WSR 15-09-099 on April 20, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 28, 2015.

Lori Anderson
Communications and
Training Officer

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-37-020 Enforcement procedures—~~((Initiation of complaint))~~ Alleging a violation. ~~((1) A complaint alleging a))~~ Alleged violations of chapter 42.17A RCW may be brought to the attention of the commission staff by:

~~((a))~~ (1) A member of the public;

~~((b))~~ (2) The commission staff;

~~((c))~~ (3) A commission member, who shall then be disqualified from participating in the decision of an enforcement ~~((hearing))~~ matter that may arise from ~~((the))~~ a complaint regarding the alleged violation(s);

~~((d))~~ (4) Referral from the office of the attorney general or any other law enforcement agency; or

~~((e))~~ (5) A state agency, local agency or member of a state or local agency.

~~((2) The person or entity against whom a complaint is filed shall be known as the respondent.))~~

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-37-040 Enforcement procedures—Procedures for filing complaints with the commission. (1) A complaint filed with the commission ~~((relating to an elected official or a candidate for elective office, shall))~~ must be in writing ~~((and signed by the complainant under oath))~~. Complainants are encouraged to use the complaint form provided by the commission on its web site.

~~((2) A complaint filed with the commission, other than a complaint specified in subsection (1) of this section, shall be made in writing.~~

~~((3))~~ A complaint ~~((filed under the provisions of either subsection (1) or (2) of this section shall))~~ must include:

(a) A statement of the nature of the alleged violation or violations, date, time and place of each occurrence and name of person or persons responsible;

(b) All available documentation and other evidence which the complainant is able to supply ~~((to demonstrate a reason for believing that a violation of the sections of chapter 42.17A RCW that are enforced by the commission has occurred; and))~~ that supports the allegations made in the complaint. Information about where documents or evidence can be obtained should be included for any items that cannot be supplied with the complaint;

(c) The names and telephone numbers, e-mail addresses, and U.S. mail address, if known, of any witnesses or other

persons who have knowledge of facts that support the complaint;

(d) The complainant's name, e-mail address, U.S. mail address, and telephone number(~~(-and other contact information for the complainant.)~~); and

(e) The signature of the complainant certifying under penalty of perjury under the laws of the state of Washington that the information provided with the complaint is true and correct to the best of his or her knowledge and belief.

(3) The person or entity against whom a complaint is filed is known as the respondent.

WSR 15-12-091

PERMANENT RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed June 2, 2015, 10:09 a.m., effective July 3, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-817-360 Prescribing, dispensing, or distributing drugs, the commission is repealing the rule as it is duplicative in intent to RCW 18.32.685 and unnecessary.

Citation of Existing Rules Affected by this Order:
Repealing WAC 246-817-360.

Statutory Authority for Adoption: RCW 18.32.0365.

Adopted under notice filed as WSR 15-05-052 on February 13, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

Date Adopted: April 24, 2015.

Robert R. Shaw, DMD
Commission Chair

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-817-360 Prescribing, dispensing or distributing drugs.

WSR 15-12-092

PERMANENT RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed June 2, 2015, 10:12 a.m., effective July 3, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-817-230 Dentist retired status, the dental quality assurance commission is adding a new section to create a retired active status dentist license, including continuing education requirements.

Statutory Authority for Adoption: RCW 18.32.065 and 18.130.250.

Adopted under notice filed as WSR 15-07-054 on March 13, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: April 24, 2015.

Robert R. Shaw, DMD
Commission Chair

NEW SECTION

WAC 246-817-230 Dentist retired active status. (1) To obtain a retired active status license, a licensed dentist must comply with chapter 246-12 WAC, Part 5, excluding WAC 246-12-120 (2)(c) and (d).

(2) A licensed dentist with a retired active status license may practice under the following conditions:

(a) In emergent circumstances calling for immediate action; or

(b) In intermittent circumstances on a nonpermanent basis.

(3) A licensed dentist with a retired active license may not receive compensation for dental services.

(4) A licensed dentist with a retired active status license must renew every year on or before the practitioner's birthday according to WAC 246-12-130 and 246-817-990 and must complete twenty-one hours of continuing education as required in WAC 246-817-440 every year with renewal.

WSR 15-12-093
PERMANENT RULES
HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed June 2, 2015, 10:29 a.m., effective July 3, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is filing rules to clarify conditions for the dispensing and use of nonpreferred generic drugs, as well as making other housekeeping changes.

Citation of Existing Rules Affected by this Order: Amending WAC 182-530-4100 and 182-530-4125.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 15-09-117 on April 21, 2015.

Changes Other than Editing from Proposed to Adopted Version: In the first sentence of WAC 230-530-4100, the reference to "medicare agency" was corrected to say "medicaid agency."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: June 2, 2015.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-530-4100 Washington preferred drug list (PDL). Under RCW 69.41.190 and 70.14.050, the ~~((department))~~ medicaid agency and other state agencies cooperate in developing and maintaining the Washington preferred drug list (PDL).

(1) Washington state contracts with evidence-based practice center~~((s))~~ for systematic drug reviews ~~((of drug(s)))~~.

(2) The pharmacy and therapeutics (P&T) committee reviews and evaluates the safety, efficacy, and outcomes of prescribed drugs, using evidence-based information provided by the evidence-based practice center~~((s))~~.

(3) The P&T committee makes recommendations to state agencies as to which drug~~((s))~~ to include on the Washington PDL under chapter 182-50 WAC.

(4) The appointing authority makes the final selection of drugs included on the Washington PDL.

(5) Drugs in a drug class on the Washington PDL that have been studied by ~~((the))~~ an evidence-based practice center~~((s))~~ and reviewed by the P&T committee and which have not been selected as preferred are considered nonpreferred drugs and are subject to the therapeutic interchange program (TIP) and dispense as written (DAW) rules under WAC ~~((388-530-4150))~~ 182-530-4150.

(6) Drugs in a drug class on the Washington PDL that have not been studied by ~~((the))~~ an evidence-based practice center~~((s))~~ and have not been reviewed by the P&T committee will be treated as nonpreferred drugs not subject to the dispense as written (DAW) or the therapeutic interchange program (TIP).

(7) A nonpreferred drug which the ~~((department))~~ agency determines as covered is considered for authorization after the client has:

(a) Tried and failed or is intolerant to at least one preferred drug; and

(b) Met ~~((department))~~ agency-established criteria for the nonpreferred drug.

(8) Drugs in a drug class on the Washington PDL may be designated as preferred drugs for special populations or specific indications.

(9) Drugs in a drug class on the Washington PDL may require authorization for safety.

(10) Combination drugs that have been studied by ~~((the))~~ an evidence-based practice center and have been reviewed by the P&T committee may be included in the Washington PDL.

(11) When a brand-name drug has been reviewed by the P&T committee, the ~~((department))~~ agency may immediately designate an available, less expensive, equally effective, generic equivalent as a preferred drug. For the purpose of this chapter, generic equivalent drugs are those identified in the ~~((FDA's))~~ Food and Drug Administration's approved drug products with therapeutic equivalence evaluations (orange book).

(12) The dispensing of a brand name or nonpreferred generic drug in a drug class on the Washington PDL as a client's first course of treatment within that therapeutic class may be subject to restrictions under WAC ~~((388-530-4125 and WAC 388-530-4150(10)))~~ 182-530-4125 and 182-530-4150(10).

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-530-4125 Generics first for a client's first course of treatment. The ~~((department))~~ medicaid agency uses point-of-sale (POS) claim messaging to ~~((communicate to))~~ tell pharmacies to use a preferred generic drug for the client's first course of treatment in specific drug classes.

(1) The ~~((department))~~ agency may require preferred generic drug~~((s))~~ on the Washington preferred drug list (PDL) be used before any brand name or nonpreferred generic drugs for a client's first course of treatment within that therapeutic class of drugs, when:

(a) There is a less expensive, equally effective therapeutic alternative generic product available to treat the condition; and

(b) The drug use review (DUR) board established under WAC ((~~388-530-4000~~) 182-530-4000) has reviewed the drug class and recommended to the ((~~department~~) agency) that the drug class is appropriate to require generic drugs as a client's first course of treatment.

(2) For drug classes selected by the ((~~department which~~) agency that) meet the criteria of subsection (1) of this section, only preferred generic drugs are covered for a client's first course of treatment, except as identified in subsection (3) of this section.

(3) Endorsing practitioners' prescriptions written "Dispense as written (DAW)" for preferred and nonpreferred brand name drugs and nonpreferred generics in the specific drug classes on the Washington PDL reviewed by the DUR board will be subject to authorization to establish medical necessity as defined in WAC ((~~388-500-0005~~) 182-500-0070).

WSR 15-12-097
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed June 2, 2015, 11:58 a.m., effective July 3, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amends WAC 181-82A-204 to waive the ninety day requirement for teachers seeking to add science endorsements.

Citation of Existing Rules Affected by this Order: Amending WAC 181-82A-204.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 15-08-098 on April 1, 2015.

Changes Other than Editing from Proposed to Adopted Version: Edits for clarity from public hearing.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 252, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 21, 2015.

David Brenna
 Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 10-23-076, filed 11/15/10, effective 12/16/10)

WAC 181-82A-204 Endorsement requirements. (1)

Candidates completing endorsements required to obtain a residency certificate, shall complete college/university teacher preparation programs approved by the professional educator standards board pursuant to chapter 181-78A WAC, which include methodology (see WAC 181-78A-264(5)) and field experience/internship (see WAC 181-78A-264(6)) and pursuant to endorsement program approval requirements in this chapter.

(2) In order to add an additional endorsement, the candidate shall:

(a) Have completed a state-approved endorsement program which includes methodology (see WAC 181-78A-264(5)) and addresses all endorsement-specific competencies adopted and published by the professional educator standards board. The requirement for field experience shall be at the discretion of the college/university. Provided, that in cases where programs require a field experience/internship, the colleges/universities should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's teaching schedule; or

(b) Achieve National Board certification in a Washington teaching endorsement area and hold a valid National Board certificate; or

(c) Pass the subject knowledge test approved by the professional educator standards board for the certificate endorsement being sought. The instructional methodology and content-related skills of the desired subject endorsement must be compatible with one or more of the current endorsement(s) on the applicant's teacher certificate, per the list of Pathway 1 endorsements adopted and published by the professional educator standards board. The applicant must document a minimum of ninety days teaching experience as a teacher via full-time, part-time, or substitute experience, in a public or state approved private school, or state agency providing educational services for students, in the endorsement area that is compatible in instructional methodology and content-related skills to the Pathway 1 endorsement; or

(d)((+)) Pass the subject knowledge test approved by the professional educator standards board for the certificate endorsement being sought and successfully meet all eligibility criteria and process requirements for Pathway 2 endorsements as adopted and published by the professional educator standards board. The desired subject endorsement must be identified as a Pathway 2 endorsement for one or more of the current endorsement(s) on the applicant's teacher certificate, per the list of Pathway 2 endorsements adopted and published by the professional educator standards board. The applicant must document a minimum of ninety days teaching experience as a teacher via full-time, part-time, or substitute experience, in a public or state approved private school, or state agency providing educational services for students, while holding the endorsement area that is compatible in instructional methodology and content-related skills to the Pathway 2 endorsement.

(i) The ninety day teaching requirement is waived per RCW 28A.660.045 for individuals having an elementary

education certificate but who are not employed in positions requiring an elementary education certificate and pursuing an endorsement in middle level mathematics or science.

(ii) The ninety day teaching requirement is waived for candidates holding a designated science endorsement who are adding a science endorsement.

(iii) Teacher preparation programs that offer Pathway 2 endorsement programs shall follow process steps as adopted by the professional educator standards board and published by the superintendent of public instruction to verify successful completion of the Pathway 2 process and to recommend adding the endorsement to the applicant's teacher certificate.

(3) Candidates from out-of-state shall be required to present verification that they completed a state-approved program (equivalent to a major) in a Washington endorsement area.

(4) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

(5) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

(6) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

**WSR 15-12-099
PERMANENT RULES
DEPARTMENT OF
ENTERPRISE SERVICES**

[Filed June 2, 2015, 1:09 p.m., effective August 24, 2015]

Effective Date of Rule: August 24, 2015.

Purpose: As required by RCW 43.19.742, these rules are needed to implement managed print strategies to track, manage, and reduce agency-based printing.

Statutory Authority for Adoption: RCW 43.19.742.

Adopted under notice filed as WSR 14-24-122 [14-16-122] on August 6, 2014, and continuance filed as WSR 14-24-124 on December 3, 2015 [2014].

Changes Other than Editing from Proposed to Adopted Version: Rules filed under WSR 14-24-124 - no changes were made.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 26, 2015.

Jack Zeigler
Policy and Rules Manager

Chapter 200-380 WAC

PRINT MANAGEMENT

NEW SECTION

WAC 200-380-010 Purpose and authority. RCW 43.19.742 requires the department to put in place rules and guidelines to improve the efficiency and minimize the costs of agency-based printing.

The requirements and definitions of this chapter are used by agencies in conjunction with the department's guidelines for managing print operations to:

(1) Improve efficiencies and minimize the costs of agency-based printing;

(2) Manage their printing operations, including both agency-based printing and those jobs that require services of a print shop; and

(3) Implement managed print strategies.

Additional requirements related to printing are found under RCW 43.19.733 through 43.19.757.

NEW SECTION

WAC 200-380-020 Definitions. For the purposes of this chapter, the definitions in this section apply unless the context clearly requires otherwise. Additional definitions are in RCW 39.26.010.

(1) "Agency-based printing" means an agency's internal printing, which does not require a private sector print shop or another state agency print shop.

(2) "Broker" means solicit and establish the acquisition of a range of services to account for differentiation of needs among state agencies.

(3) "Desktop printing" means the use of a desktop printer to complete a print job.

(4) "Digital printing" means a digital-based image transferred directly to a variety of media, usually liquid ink or toner based.

(5) "Managed print services (MPS)" are services offered by an external provider to optimize or manage an organization's document output to meet certain objectives; such as driving down costs, improving efficiency and productivity, or reducing the support workload.

The main components provided are needs assessment, selective or general replacement of scanning and document capture equipment, and the service, parts and supplies (excluding paper) needed to operate the new and/or existing equipment (including existing third-party equipment if this is required).

(a) Some current examples of services are:

(i) Tracking how the printer fleet is being used, the problems and the user satisfaction;

(ii) Analyzing the information gathered in the course of tracking printer usage and makes (or recommends to the customer) the adjustments needed not only to ensure fleet efficiency, but also to meet changing user needs;

(iii) Developing custom applications for smart multi-function products (MFPs) that automate paper-intensive document workflows and route scanned pages to document management systems;

(iv) Restructuring of document workflows;

(v) Improving document security; and

(vi) Reducing print volumes and power consumption for environmental reasons.

(b) Some current examples of equipment are:

(i) Multifunctional devices (MFDs);

(ii) Networked printers;

(iii) Nonnetworked printers;

(iv) Plotters;

(v) Desktop printers;

(vi) Scanners; and

(vii) Large format devices.

(6) "Guidelines for managing print operations" means a resource document provided by the department for agencies to use in order to identify and implement managed print strategies and other tools necessary to track, manage, and minimize agency-based printing.

(7) "MFD state contract" means a state master contract brokered by the department for use by agencies and other authorized users for the lease, rental, or purchase of an MFD or a fleet of MFDs.

(8) "Multifunctional device (MFD)" means a networked or nonnetworked digital printing device capable of any combination of the following functions:

(a) Printing;

(b) Copying;

(c) Scanning; and

(d) Faxing.

(9) "MPS state contract" means a state master contract brokered by the department for use by agencies and other authorized users for MPS. A MPS state contract allows agencies to choose the optimal combination of managed print services based on an agency's specific business needs.

(10) "Offset printing" means a printing technique where an inked image is offset by a plate or rubber blanket then transferred to a surface.

(11) "Print assessment" means an analysis of print services required to meet an agency's printing needs in the most efficient cost and effective manner.

(12) "Print management" means the overarching general term that applies to the management of all agency printing operations, including agency self-service and supplier generated printed material, services, and/or equipment.

(13) "Print services" means digital printing, quick copy, and offset printing including, but not limited to, printing done in a print shop.

(14) "Print shop" means a shop where printing is done, usually by an offset method where ink is applied to paper or other substrate.

(15) "Quick copy" means quick turnaround services for short-run printed materials.

NEW SECTION

WAC 200-380-030 Agency requirements. In order to fully implement the requirements of this chapter:

(1) Agencies must adopt agency wide policies, standards and procedures governing the management of their print operations.

(2) Agencies must determine baseline print costs using life cycle cost analysis as defined by RCW 39.26.010(15). Where applicable, agencies must include the costs of equipment relocation and redeployment.

(3) Agencies must annually submit an agency print management strategy report to the department.

WSR 15-12-109

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed June 3, 2015, 8:26 a.m., effective July 4, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The proposed changes establish a quality orchardgrass seed certification program.

Citation of Existing Rules Affected by this Order: Amending WAC 16-302-740, 16-302-745, 16-302-750, and 16-302-755.

Statutory Authority for Adoption: RCW 15.49.005, 15.49.310, and 15.49.370 (3), (4).

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 15-03-040 on January 12, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 4, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 3, 2015.

Kirk Robinson
Acting Deputy Director

Quality Orchardgrass Seed and Quality Timothy Seed Program

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

WAC 16-302-740 Standards for quality orchardgrass seed and quality timothy seed certification. (1) The general seed certification definitions and standards found in WAC 16-302-005 through 16-302-130, the grass seed certification standards found in WAC 16-302-320 through 16-302-390, and the requirements found in WAC 16-302-745 through ~~((16-302-755))~~ 16-302-756 constitute the standards for quality orchardgrass seed and quality timothy seed certification.

(2) Fees for quality orchardgrass seed and quality timothy seed certification are assessed by the certifying agency as established in chapter 16-303 WAC.

AMENDATORY SECTION (Amending WSR 08-23-055, filed 11/14/08, effective 12/15/08)

WAC 16-302-745 Seed certification requirements. (1) In order for a seed lot to be eligible for quality orchardgrass seed or quality timothy seed certification ((#)), the seed lot must meet field and seed certification standards as defined in WAC 16-302-330 through 16-302-385.

(2) For ((#)) an orchardgrass seed or timothy seed lot that has already been certified, a copy of the certification tag must be submitted as proof of certification.

AMENDATORY SECTION (Amending WSR 08-23-055, filed 11/14/08, effective 12/15/08)

WAC 16-302-750 Official sampling requirements. The seed test for the quality orchardgrass seed and quality timothy seed program must be conducted on an officially drawn sample taken in accordance with WAC 16-302-090.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

WAC 16-302-755 Standards for quality timothy seed. (1) Seed standards for quality timothy grass seed are as follows:

	Minimum % Purity	Minimum Viability by Germination or TZ Test	Maximum % Other Crop (a)	Maximum % Weed (b)
Timothy seed	97	85	0.20	0.02
Purity component percentages are based on 1 gram sample size ((as prescribed by the AOSA rules)) .				

(a) Must be free of ryegrass, orchardgrass, *Agrostis* sp., *Poa* sp., brome, reed canarygrass, tall fescue, and meadow foxtail.

Must be free of the above listed contaminants based upon a 50 gram examination.

(b) Must be free of alfilaria (redstem filaree), *Bromus* sp., chickweed including all other species in the Caryophyllaceae family, henbit, *Poa* sp., wild carrot, ~~((and))~~ prohibited noxious weeds listed in WAC 16-301-045, and restricted noxious weeds listed in WAC 16-301-050.

Must be free of the above listed contaminants based upon a 50 gram examination.

(2) A quality timothy seed analysis certificate is the basis of determining if a lot meets the quality timothy seed standards. This certificate is issued by the certifying agency and represents a purity test, a 50 gram noxious, all weed, all crop exam, and a viability test.

(3) Seed meeting quality timothy seed standards will be tagged with a "quality timothy seed" tag.

NEW SECTION

WAC 16-302-756 Standards for quality orchardgrass seed. (1) Seed standards for quality orchardgrass seed are as follows:

	Minimum % Purity	Minimum Viability by Germination or TZ Test	Maximum % Other Crop (a)	Maximum % Weed (b)
Orchardgrass seed	90	85	0.20	0.02
Purity component percentages are based on 3 gram sample size.				

(a) Must be free of ryegrass, timothy, *Agrostis* sp., *Poa* sp., brome, reed canarygrass, tall fescue, and meadow foxtail.

Must be free of the above listed contaminants based upon a 50 gram examination.

(b) Must be free of alfilaria (redstem filaree), *Bromus* sp., chickweed including all other species in the Caryophyllaceae family, henbit, *Poa* sp., wild carrot, prohibited noxious weeds listed in WAC 16-301-045, and restricted noxious weeds listed in WAC 16-301-050.

Must be free of the above listed contaminants based upon a 50 gram examination.

(2) A quality orchardgrass seed analysis certificate is the basis of determining if a lot meets the quality orchardgrass seed standards. This certificate is issued by the certifying agency and represents a purity test, a 50 gram noxious, all weed, all crop exam, and a viability test.

(3) Seed meeting quality orchardgrass seed standards will be tagged with a "quality orchardgrass seed" tag.

WSR 15-12-110
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed June 3, 2015, 8:30 a.m., effective July 4, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To correct errors contained in the existing standards for camelina seed production. For pure seed minimum percentage, Association of Official Seed Certifying Agencies (AOSCA) camelina standards specify ninety-eight percent purity for certified seed. However, the existing rule specifies ninety-seven percent purity for certified seed. Similarly, for inert matter maximum percentage, AOSCA camelina standards specify a maximum allowance of two percent for foundation, registered, and certified seed. However, the existing rule specifies a maximum allowance of only one percent inert matter for foundation, registered, and certified seed.

Citation of Existing Rules Affected by this Order: Amending WAC 16-302-835.

Statutory Authority for Adoption: RCW 15.49.005, 15.49.310, and 15.49.370(3).

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 15-07-095 on March 17, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 3, 2015.

Kirk Robinson
Acting Deputy Director

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

WAC 16-302-835 Seed standards for camelina seed production. The following are the seed standards for camelina seed production:

	Standards permitted in each class		
Factor	Foundation	Registered	Certified
Pure seed (minimum)%	98	98	((97)) 98
Other crop (maximum)%	0.10	0.20	0.30
Inert matter (maximum)%	((1)) 2	((1)) 2	((1)) 2

	Standards permitted in each class		
Factor	Foundation	Registered	Certified
Weed seed (maximum)%	0.05	0.05	0.05
Objectionable weeds	None	None	None
Germination (minimum)%*	85	85	85

* A tetrazolium test may be used in lieu of a germination test for certification.

WSR 15-12-113
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed June 3, 2015, 9:42 a.m., effective July 4, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This amended rule provides further clarification for school emergency closure eligibility.

Citation of Existing Rules Affected by this Order: Amending WAC 392-129-150 School emergency closure—Implementation of superintendent of public instruction's determination of eligibility.

Statutory Authority for Adoption: RCW 28A.150.290.

Adopted under notice filed as WSR 15-09-105 on April 20, 2015.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 29, 2015.

Randy Dorn
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 08-13-049, filed 6/12/08, effective 7/13/08)

WAC 392-129-150 School emergency closure—Implementation of superintendent of public instruction's determination of eligibility. (1) If the superintendent of public instruction determines that the school district has provided a conclusive demonstration that one or more unforeseen nat-

ural events, mechanical failures, or actions or inactions by one or more persons prevented the school district from operating the school, the school district shall receive its full annual allocation of state moneys. However, the superintendent of public instruction may only excuse the school district for up to two scheduled school days per incident and not for more than three scheduled school days per school year. Provided, the superintendent may excuse more than two scheduled school days per incident or three scheduled school days per year:

(a) When the unforeseen natural event, mechanical failure, or action or inaction by one or more persons caused a loss of life or significant injury to a person or persons on a school campus; or

(b) Where the school is located in a county which was subject to a state of emergency declaration by the governor due to fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption, and the event giving rise to the emergency declaration prevented operation of the school.

(2) If the district did not conclusively demonstrate that it was prevented from operating the school(s), its allocation of state moneys shall be reduced by:

((+)) (a) Dividing the number of days lost by one hundred eighty;

((2)) (b) Multiplying the result obtained in subsection (1) of this section by the annual average full-time equivalent enrollment in the school; and

((3)) (c) Dividing the result obtained in subsection (2) of this section by the annual average full-time equivalent enrollment in the school district.

WSR 15-12-123

PERMANENT RULES

PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed June 3, 2015, 11:51 a.m., effective July 4, 2015]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amends WAC 181-78A-100 to clarify that the professional educator standards board will publish the process to reply to an approved program review.

Citation of Existing Rules Affected by this Order: Amending WAC 181-78A-100.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 15-08-022 on March 24, 2015.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 3, 2015.

David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 14-24-004, filed 11/19/14, effective 12/20/14)

WAC 181-78A-100 Existing approved programs.

Chapter 181-78A WAC rules shall govern all policies related to programs upon adoption by the professional educator standards board, which shall provide assistance to programs in the revision of their existing programs.

(1) The professional educator standards board shall determine the schedule for such approval reviews and whether an on-site visit or other forms of documentation and validation shall be used for the purposes of granting approval under program approval standards. In determining the schedule for site visits, the board shall take into consideration the partnership agreement between the state and national accreditation organizations as such agreement relates to the accreditation cycle and allow CAEP accredited programs to follow the CAEP schedule for their review. Non-CAEP accredited programs shall have a review every five years. The professional educator standards board may require more frequent site visits at their discretion pursuant to WAC 181-78A-110(2). The professional educator standards board will not consider requests for site visit delays.

(2) Each institution shall submit its program for review when requested by the professional educator standards board to ensure that the program meets the state's program approval standards as follows:

(a) At least six months prior to a scheduled on-site visit, the institution shall submit an institutional report that provides evidence and narrative, as needed, that addresses how the program approval standards are met for each preparation program undergoing review. Evidence shall include such data and information from the annual data submissions required per WAC 181-78A-255(2) as have been designated by the professional educator standards board as evidence pertinent to the program approval process.

(b) The institutional report shall be reviewed by a team whose membership is composed of:

(i) One member of the professional educator standards board;

(ii) One peer institution representative;

(iii) One individual with assessment expertise;

(iv) Two K-12 practitioners with expertise related to the programs scheduled for review; and

(v) A site team chair who has completed state site chair training.

(c) Substitutions, drawn from (b)(i) through (iv) of this subsection, may be assigned when individuals are not available. Additions to the team shall be drawn from (b)(i) through (iv) of this subsection when necessary. The professional educator standards board liaison for that institution may be present, but shall not serve in an evaluative role. All members, including substitutes, shall be trained.

(d) Team membership may be reduced for regular continuing visits in which fewer than five standards are being reviewed, initial visits, and focus visits. At a minimum, the team must consist of two members of which one must be a member of the professional educator standards board.

(e) Members of a focus visit team shall, at a minimum, be comprised of one member who served on the on-site team and one member of the professional educator standards board.

(f) Members of the site team may be assigned to conduct an audit of a standard. The standard(s) to be audited during a site review will be determined by the professional educator standards board. The audit must be held during the same semester as the site team review. A site team member conducting an audit will not participate in site team meetings, and will not have a vote in site team decision beyond the standard being audited. The process for an audit shall be published by the professional educator standards board.

(g) The review of the off-site team shall identify additional evidence and clarifications that may be needed to provide adequate support for the institutional report.

(h) The report of the off-site team shall be submitted to the institution, which shall provide an addendum to the institutional report no later than five weeks preceding the on-site review.

(i) The on-site visit shall be conducted in compliance with the protocol and process adopted and published by the professional educator standards board. The team shall be comprised of members of the off-site review team whenever possible.

(j) The final site visit report and other appropriate documentation will be submitted to the professional educator standards board.

(k) Institutions may submit a reply to the report within two weeks following receipt of the report. The reply is limited to evidence that the review disregarded state standards, failed to follow state procedures for review, or failed to consider evidence that was available at the time of the review. PESB shall publish the process for submitting and reviewing the institutional reply.

(l) In considering the report, the professional educator standards board may grant approval according to WAC 181-78A-110 and 181-78A-100(1).

(m) Institutions may request a hearing in instances where it disagrees with the professional educator standards board's decision. The hearing will be conducted through the office of administrative hearings by an administrative law judge per chapter 34.05 RCW. The institution seeking a hearing will provide a written request to the professional educator standards board in accordance with WAC 10-08-035.

(3) Institutions seeking Council for the Accreditation of Educator Preparation, Council for Accreditation of Counseling and Related Education Programs, and National Associa-

tion of School Psychologist accreditation may request from the professional educator standards board approval for concurrent site visits which would utilize the same documentation with the exception of material submitted by the institution to the state for the professional education advisory boards and the accountability standards.